# FEDERAL REGISTER

VOLUME 18 NUMBER 121

*Washington, Tuesday, June 23, 1953*


## TITLE 3—THE PRESIDENT

### REORGANIZATION PLAN NO. 4 OF 1953

*Prepared by the President and Transmitted to the Senate and the House of Representatives in Congress Assembled, April 20, 1953, Pursuant to the Provisions of the Reorganization Act of 1949, Approved June 20, 1949, as Amended*[1]

DEPARTMENT OF JUSTICE

SECTION 1. *Acting Attorney General.* (a) The function with respect to exercising the duties of the office of Attorney General vested in the Solicitor General by Section 347, Revised Statutes, as amended (5 U. S. C. 293), is hereby transferred to the Deputy Attorney General, and for the purposes of Section 177, Revised Statutes (5 U. S. C. 4) the Deputy Attorney General shall be deemed to be the first assistant of the Department of Justice.

(b) During any period of time when, by reason of absence, disability, or vacancy in office, neither the Attorney General nor the Deputy Attorney General is available to exercise the duties of the office of Attorney General, the Assistant Attorneys General and the Solicitor General, in such order of succession as the Attorney General may from time to time prescribe, shall act as Attorney General.

SEC. 2. *Assistant Attorney General.* There shall be in the Department of Justice an additional Assistant Attorney General who shall be appointed by the President, by and with the advice and consent of the Senate, who shall receive compensation at the rate prescribed by law for other Assistant Attorneys General, and who shall assist the Attorney General in the performance of his duties. The office of Assistant Attorney General in charge of customs matters created by section 30 of the act of June 10, 1890, as amended (36 Stat. 108, 5 U. S. C. 296), is hereby abolished.

[F. R. Doc. 53-5578; Filed, June 22, 1953; 9:01 a. m.]

[1] Effective June 20, 1953, under the provisions of section 6 of the act; published pursuant to section 11 of the act (63 Stat. 203; 5 U. S. C. Sup. 133z).

## TITLE 6—AGRICULTURAL CREDIT

### Chapter IV—Production and Marketing Administration and Commodity Credit Corporation, Department of Agriculture

Subchapter C—Loans, Purchases, and Other Operations

[1953 C. C. C. Grain Price Support Bulletin 1, Supplement 1, Winter Cover Crop Seed]

PART 601—GRAINS AND RELATED COMMODITIES

SUBPART—1953-CROP WINTER COVER CROP SEED LOAN AND PURCHASE AGREEMENT PROGRAM

A price support program has been announced for the 1953 crop of winter cover crop seeds named in § 601.235 hereof. The 1953 C. C. C. Grain Price Support Bulletin 1, 18 F. R. 1960, issued by the Commodity Credit Corporation and containing the regulations of a general nature with respect to price support operations for grains and related commodities produced in 1953, is supplemented as follows:

Sec.
601.226 Purpose.
601.227 Availability of price support.
601.228 Eligible seed.
601.229 Warehouse receipts.
601.230 Determination of quantity.
601.231 Determination of quality.
601.232 Deterioration of seed under farm-storage loan.
601.233 Warehouse and other charges.
601.234 Maturity of loans.
601.235 Schedule of support rates and specifications.
601.236 County rates.
601.237 Delivery of seed to CCC.
601.238 Settlement.

AUTHORITY: §§ 601.226 to 601.238 issued under sec. 4, Stat. 1070, as amended; 15 U. S. C. Sup. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 301, 401, 63 Stat. 1053, 1054; 15 U. S. C. Sup. 714, 7 U. S. C. Sup. 1447, 1421.

§ 601.226 *Purpose.* This supplement states additional specific regulations which, together with the general regulations contained in the 1953 C. C. C. Grain Price Support Bulletin 1, 18 F. R. 1960, apply to loans and purchase agreements under the 1953-Crop Winter Cover Crop Seed Price Support Program.

(Continued on next page)

## CONTENTS

### THE PRESIDENT



### EXECUTIVE AGENCIES

FEDERAL REGISTER

Published daily, except Sundays, Mondays, and days following official Federal holidays, by the Federal Register Division, National Archives and Records Service, General Services Administration, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U. S. C., ch. 8B), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D. C.

The regulatory material appearing herein is keyed to the Code of Federal Regulations, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended June 19, 1937.

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## CONTENTS—Continued



## CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.



§ 601.227 *Availability of price support*—(a) *Method of support.* Price support will be available through farm-storage and warehouse-storage loans and purchase agreements for all seeds listed in § 601.235.

(b) *Area.* Farm-storage and warehouse-storage loans and purchase agreements will be available to producers wherever any of the seeds listed in § 601.235 are grown in the continental United States, except that farm-storage loans will not be available in areas where the PMA State committee determines that such seeds cannot be safely stored on the farm.

(c) *Where to apply.* Application for price support shall be made at the office of the PMA county committee which keeps the farm-program records for the farm, except that application by cooperative marketing association of producers shall be made at the office of the PMA county committee serving the county in which the principal office of the association is physically located, or at such other PMA county committee office as the PMA State committee determines the application can be more effectively handled.

(d) *When to apply.* Loans and purchase agreements will be available to producers from the time of harvest through December 31, 1953, and the applicable documents must be signed by the producer and delivered to the county committee not later than such date.

(e) *Eligible producer* (1) An eligible producer shall be an individual, partnership, association, corporation, or other legal entity producing seed listed in § 601.235 in 1953 as landowner, landlord, tenant or sharecropper.

(2) A cooperative marketing association of producers shall be deemed to be an eligible producer. *Provided,* That (i) the producer members are bound by contract to market through the association; (ii) the major part of the seed marketed by the association is produced by members who are eligible producers; (iii) the members share proportionately in the proceeds from marketings according to the quantity and quality of seed each delivers to the association; (iv) the seed purchased from nonmembers is segregated at all times to assure that the seed placed under loan or delivered under a purchase agreement is seed grown by producer members; and (v) the association has the legal right to pledge or mortgage the seed as security for a loan or to sell the seed under a purchase agreement.

§ 601.228 *Eligible seed.* Eligible seed shall meet the following requirements:

(a) The seed must have been produced in the continental United States in 1953 by an eligible producer and be one of the kinds and varieties named in § 601.235.

(b) The beneficial interest in the seed must be in the person tendering the seed for loan or for delivery under a purchase agreement, and must always have been in him, or must have been in him and a former producer whom he succeeded before the seed was harvested. In the case of cooperative marketing associations, the beneficial interest in the seed must have been in the producer members who delivered the seed to the association and must always have been in them or in them and former producers whom they succeeded before the seed was harvested.

(c) Except for tolerances permitted under the Federal Seed Act in connection with the test made at the time of delivery, as provided in § 601.231 (c) (2) the seed must on the basis of quality determinations made in accordance with § 601.231 be equal to or better in every respect than the minimum specifications for the particular kind of seed as shown in § 601.235 unless the warehouseman, in the case of seed being offered for loan or delivery under a purchase agreement, certifies that the seed is of a quality eligible for price support, shows such quality on the warehouse receipt, and guarantees to deliver CCC seed of a quality equal to, or better than, that shown on the warehouse receipt.

(d) In addition to the restrictions on noxious weed seeds in the schedule in § 601.235, the seed must not contain noxious weed seeds in excess of the number permitted for sale as planting seed by the State seed law and rules and regulations pursuant thereto, of the State in which the seed is tendered for loan or delivered under a purchase agreement.

(e) The seed must be fumigated if necessary.

§ 601.229 *Warehouse receipts.* Warehouse receipts representing seed placed under loan or delivered under a purchase agreement must meet the following requirements.

(a) Warehouse receipts must be issued in the name of the producer or cooperative marketing association of producers, must be properly endorsed in blank so as to vest title in the holder, must be issued by a warehouse approved by CCC under the Seed Storage Agreement and must show the quantity of eligible seed actually in store in the warehouse.

(b) Where the seed is commingled, the warehouseman must guarantee both the quality and the quantity of the seed.

(c) Where the warehouseman guarantees the quality of the seed placed under loan, on either an identity-preserved or commingled basis, each warehouse receipt, or the warehouseman's supplemental certificate (in duplicate) properly identified with the warehouse receipt, must show the kind or variety of the seed, the net weight, and the factors used in determining the quality of the seed.

(d) Where the seed is stored on an identity-preserved basis and the warehouseman does not guarantee the quality, there shall be attached to the warehouse receipt for the lot of seed stored identity-preserved a true copy of the official purity analysis report and germination test certificate.

(e) Any warehouse receipt representing seed stored on an identity-preserved basis must set forth in the written or printed terms the kind or variety of seed, the lot number or other identification, the number of bags and the total net weight.

(f) Warehouse receipts shall carry an endorsement in substantially the following form:

Warehouse charges through January 31, 1954, on the seed represented by this warehouse receipt have been paid or otherwise provided for, and lien for such charges will not be claimed by the warehouseman from CCC or any subsequent holder of the warehouse receipt.

§ 601.230 *Determination of quantity—*(a) *Seed under warehouse-storage loans or purchase agreements in approved warehouses.* The quantity of seed placed under loan or delivered under a loan or purchase agreement in an approved warehouse shall be determined on the basis of the net weight of the eligible seed as shown on the warehouse receipt. If the seed is to be stored on an identity-preserved basis in an approved warehouse, the net weight of seed to be shown on the warehouse receipt shall be determined by official weights, or if official weights cannot be obtained, such net weight of the seed shall be determined in a manner approved by the county committee.

(b) *Seed under farm-storage loan.* The quantity of seed placed under a farm-storage loan shall be determined on the basis of net weights satisfactory to the county committee. The quantity of seed delivered under a farm-storage loan shall be determined on the basis of official weights or, where official weights cannot be obtained, the net weight of the seed delivered shall be determined in a manner approved by the county committee.

(c) *Seed delivered under purchase agreements other than in store in approved warehouses.* In the case of seed which is not represented by a warehouse receipt issued by an approved warehouse, the quantity for purposes of settlement under a purchase agreement shall be the net weight of the quantity actually delivered. Such net weight shall be determined on the basis of official weights, or where official weights cannot be obtained, the net weight of the seed delivered shall be determined in a manner approved by the county comittee.

§ 601.231 *Determination of quality.* All determinations of quality shall be made by the county committee on the basis of official purity and germination tests of a representative sample of each lot of seed, except where the warehouseman guarantees quality and quantity.

(a) *When the loan is made—*(1) *Quality guaranteed.* If the seed is stored in an approved warehouse and the warehouseman guarantees the quality of the seed being offered for loan, the loan will be made on the basis of the quality of the seed as shown on the warehouse receipt or the warehouseman's supplemental certificate.

(2) *Quality not guaranteed.* If the seed being offered for loan is in farm storage or in warehouse storage where the warehouseman does not guarantee the quality of the seed, the loan will be made on the basis of the quality of the seed determined from official tests of representative samples drawn not more than five calendar months prior to the first day of the month in which the seed is tendered for loan.

(b) *Before delivery under a purchase agreement.* If the quality of the seed delivered under a purchase agreement is not guaranteed by an approved warehouse, the quality of the seed must be determined from official tests of representative samples drawn not more than five calendar months prior to the first day of the month in which the seed is tendered for delivery.

(c) *At time of settlement—*(1) *Quality guaranteed.* If the seed delivered under a loan or purchase agreement is stored in an approved warehouse and the warehouseman guarantees the quantity and quality of the seed, settlement shall be made with the producer at the applicable support rate for the quality of the seed shown on the warehouse receipt.

(2) *Quality not guaranteed.* Settlement under farm-storage loans and under warehouse-storage loans where the quality of the seed is not guaranteed by an approved warehouseman will be made on the basis of the quality of the seed when placed under loan except that in the cases set forth below (subdivisions i to vi inclusive) settlement shall be made on the basis of purity and germination tests determined from a representative sample of the lot of seed which shall be drawn at the time of settlement. Settlement under purchase agreements where quality is not guaranteed by an approved warehouseman will be made on the basis of the quality shown by official purity and germination tests based on representative samples drawn not more than five calendar months prior to the first day of the month in which the seed is delivered to CCC, except that in the cases set forth below (subdivisions i to iv inclusive) settlement shall be made on

the basis of purity and germination tests of the seed as determined from a representative sample of the lot of seed which shall be drawn at the time of delivery.

(i) When one or more of the purity factors (pure seed, weed seed, other crop seed, or noxious weed seed) of the seed determined at time of delivery varies from the respective purity factor indicated on the original purity analysis report furnished by the producer to a greater extent than the tolerances permitted under the rules and regulations of the Federal Seed Act;

(ii) When the number of bags of seed in the lot delivered is different from the number of bags in the lot represented by the original tests;

(iii) When the lot number or other lot identification on the analysis report and/or germination test certificate does not agree with the lot number or other identification shown on the lot of seed delivered,

(iv) When the county committee determines that the physical condition of the seed indicates the original purity certificate is no longer representative of the lot of seed;

(v) In the case of settlement under loans, when damage or deterioration has resulted from negligence on the part of the producer or other person having control of the storage structure; or

(vi) In the case of settlement under loans, when the entire lot of seed at the time of settlement is not the identical seed placed under loan.

(d) *Appeal test.* If the producer is not satisfied with the result of the tests made at time of delivery, he may request that another representative sample of the lot of seed be drawn and submitted to a seed testing laboratory approved by the Director, Grain Branch, PMA, to conduct such appeal tests. The results of such laboratory germination test and purity analysis, without taking into consideration tolerances, shall be final.

(e) *Official test.* An official test shall be a test made by a Federal or State Seed Testing Laboratory, or by a commercial seed testing laboratory approved by the PMA State committee.

(f) *Representative sample.* A representative sample for determination of quality shall be a sample taken by a licensed State inspector, or where such services are not provided, the county committee shall arrange for a qualified disinterested person to obtain a representative sample. The sample shall consist of equal portions taken from evenly distributed parts of the lot of seed to be sampled. In case the seed is bagged, in quantities of 5 bags or less, each bag shall be sampled, in quantities of more than 5 bags, at least every fifth bag but not less than 5 bags shall be sampled. A probe or trier shall be used in drawing samples.

(g) *Charges for testing and sampling*—(1) *Before delivery.* The charges, if any, for drawing the representative sample, and for making the official tests to determine whether the seed is eligible for loan or for delivery under purchase agreement, are for the account of the producer.

(2) *At time of delivery.* Expenses incident to taking one sample of eligible seed tendered for delivery and the cost of making one official germination test and purity analysis of such lot of seed shall be borne by CCC. The cost of resampling and retesting for the appeal germination and purity determinations shall be assumed by the producer requesting the appeal and funds to cover such cost shall accompany the request when transmitted to the county committee.

§ 601.232 *Deterioration of seed.* Notwithstanding the provisions of § 601.15 of the 1953 C. C. C. Grain Price Support Bulletin 1, and the provisions of the producers note and supplemental loan agreement, the producer will not be responsible for deterioration of seed under farm-storage loan, or under a warehouse storage loan when the warehouseman does not guarantee quality occurring without fault or negligence on his part or the part of the person in control of the structure.

§ 601.233 *Warehouse and other charges.* CCC will not pay or assume charges for cleaning, fumigating, drying, bagging, weighing, sampling, testing and analysis reports, tagging or other handling or processing operations which are necessary to prepare the seed to meet eligibility requirements for price support except as otherwise provided in § 601.231 (g) CCC will not pay or assume receiving, storage, insurance, or other warehouse charges which accrue prior to February 1, 1954, or the date of the warehouse receipt, whichever is later.

§ 601.234 *Maturity of loans.* Loans mature on demand but not later than January 31, 1954.

§ 601.235 *Schedule of support rates and specifications.* The support rates at which loans will be made and at which settlement will be made on deliveries under loans and purchase agreements shall be computed for all approved points of delivery in accordance with the basic rates, specifications and discounts shown in the following schedule, except that the basic rate for hairy vetch shall be the applicable basic county rate shown in § 601.236.

SCHEDULE OF BASIC RATES, SPECIFICATIONS AND DISCOUNTS FOR 1953 WINTER COVER CROP SEED

| | Hairy vetch [1] | Common ryegrass | Roughpeas (Lathyrus hirsutus)[2] | Crimson clover | Certified reseeding crimson clover [3] |
|---|---|---|---|---|---|
| 1. Basic rate per pound (net weight) | Cents (4) | Cents 6.50 | Cents 6.00 | Cents 10.50 | Cents 19.00 |
| 2. Basic rate requirements: | Percent | Percent | Percent | Percent | Percent |
| Germination | [5] 90 | 90 | [5] 90 | [5] 85 | [5] 85 |
| Pure seed | 95 | 98 | 98 | 98 | 98 |
| Total winter legumes | [6] 98 | (7) | [6] 98 | (7) | (7) |
| Noxious weeds permitted | (8) | (8) | (8) | [9] None | None |
| Common weed seeds not to exceed | 1 | 2 | 1 | 1 | .5 |
| Other crop seed permitted | (7) | (7) | (7) | 2 | 1.0 |
| 3. Minimum eligibility requirements: | | | | | |
| Germination | [5] 70 | 75 | [5] 75 | [5] 75 | [5] 85 |
| Pure seed | 70 | 95 | 70 | 90 | 98 |
| Total winter legumes | [6] 98 | (7) | [6] 98 | (7) | (7) |
| Noxious weeds permitted | (8) | (8) | (8) | [9] None | None |
| Common weed seeds not to exceed | 1 | 2 | 1 | 1 | .5 |
| Other crop seed permitted | (7) | (7) | (7) | 4 | 1.0 |
| 4. Discount per hundredweight applicable for each percent or fraction of a percent below the basic rate requirements for: | Cents | Cents | Cents | Cents | Cents |
| Germination | [5] 20.00 | 10.00 | [5] 8.00 | [5] 20.00 | (10) |
| Purity | 11.00 | 10.00 | 2.50 | 25.00 | (10) |

[1] Rate of hairy vetch shall not be discounted due to the presence of woollypod.

[2] Roughpeas (Lathyrus hirsutus) commonly called Caley peas, Singletary or wild winter peas. When hairy vetch seed occurs in a mixture with roughpeas it shall be considered as roughpeas for the purpose of determining eligibility and support rate and the price of roughpeas shall not be discounted due to the presence of the hairy vetch provided at least 70 percent of the mixture is roughpeas.

[3] Certified seed of eligible varieties of reseeding crimson clover shall be the seed produced from volunteer stands, which originally were planted with foundation, registered, certified, or approved seed, and which has been sealed and tagged by an official agency of the State authorized to certify to the genetic purity and quality of the seed.

[4] See § 601.236 for basic county support rates for hairy vetch.

[5] Live seed including hard seed.

[6] The fractions of a percent, as well as the whole percents, of the different winter legume seeds as reported on the official analysis report may be taken into consideration in determining the eligibility of the seed with respect to the total winter legume seed. Example: Hairy vetch, 95.2 percent; Austrian winter peas, 1.1 percent; roughpeas, 1.8 percent; and common vetch, 0.4 percent; total winter legume seed content, 98 percent.

[7] No requirements specified for this item. However, the total winter legume requirements where specified and the purity requirements must be met in order for seed to be eligible for price support.

[8] Noxious weed seed shall not exceed the quantity permitted for sale as planting seed by the State seed law or regulations of the State in which the seed is delivered to CCC.

[9] Crimson clover containing not more than 5 wild onion bulblets per pound will be eligible for purchase in Kentucky only at a discount of $1 per hundred.

[10] Certified Blue Tag reseeding crimson clover seed which does not meet the basic requirements for price support but which is equal to or better than the minimum requirements for crimson clover seed will be eligible for crimson clover seed price support.

§ 601.236 *County rates.* (a) The basic county rates for hairy vetch seed will be as follows:

| | Cents per pound |
|---|---|
| Arkansas, all counties | 12.40 |
| California, all counties | 11.65 |
| Idaho, all counties | 11.65 |
| Oklahoma, all counties | 12.20 |
| Oregon, all counties | 11.65 |
| Texas, all counties | 12.15 |
| Washington, all counties | 11.65 |
| Other States, all counties | 12.00 |

(b) Farm-storage and warehouse-storage loans will be based on the county rate for the county in which the hairy vetch seed is stored. Settlement, at the time of delivery under a loan or a purchase agreement, will be based on the basic county rate for the approved point of delivery. The applicable county rate will be subject to the discounts shown on the Schedule of Basic Rates, Specifications, and Discounts in § 601.235.

§ 601.237 *Delivery of seed to CCC.* Seed under a loan or purchase agreement, when delivered to CCC, must meet the following requirements or must be represented by a warehouse receipt under which the warehouseman guarantees to meet such requirements.

(a) *Cleaning.* The seed must be cleaned, and if necessary recleaned, to meet the quality requirements of the program for eligibility.

(b) *Fumigation.* The seed must be fumigated where necessary.

(c) *Bagging.* The seed must be packaged in new bags of approved quality or better as described below, and such bags must be filled to even net quantities of the weights shown below for the particular kinds of seed:

| Type | Net quantity in each bag (pounds) |
|---|---|
| Hairy vetch and roughpeas: | |
| 1. 3-harness twill: 36-inch 8-ounce or heavier | 100 |
| 2. Osnaburg which can be probed: | |
| 36-inch 2.35 yard or heavier | 100 |
| 40-inch 2.11 yard or heavier | 100 |
| 3. Burlap: 10-ounce or heavier | 100 |
| Crimson clover and certified reseeding crimson clover: | |
| 1. Osnaburg which can be probed (seamless or double seam) | |
| 36-inch 2.35 yard or heavier | 50 and 100 |
| 40-inch 2.11 yard or heavier | 50 and 100 |
| 2. Seamless cotton: | |
| 13-ounce (20 x 42-inch) | 120 |
| 16-ounce (20 x 45-inch) | 150 |
| Common ryegrass: | |
| 1. Osnaburg which can be probed: | |
| 36-inch 2.35 yard or heavier | 100 |
| 40-inch 2.11 yard or heavier | 100 |
| 2. Burlap: 8-ounce or heavier | 100 |

(d) *Tagging.* State seed laws and rules and regulations pursuant thereto with respect to tagging the seed must be observed.

§ 601.238 *Settlement.* Where seed is delivered to CCC in accordance with § 601.18 of the 1953 CCC Grain Price Support Bulletin 1, the following additional provisions shall be applicable:

(a) *Quality guaranteed.* If the seed delivered under a loan or purchase agreement is stored in an approved warehouse and the warehouseman guarantees the quantity and quality of the seed, settlement shall be made with the producer at the applicable support rate on the basis of the quantity and quality of the seed shown on the warehouse receipt.

(b) *Quality not guaranteed*—(1) *Farm-storage loans.* Settlement under a farm-storage loan shall be made with the producer at the applicable support rate on the basis of the quantity of the seed delivered, and on the basis of the quality of the seed determined in accordance with § 601.231.

(2) *Warehouse-storage loans.* If the quality of the seed is not guaranteed by an approved warehouseman, settlement shall be made with the producer at the applicable support price on the basis of the quantity of seed shown on the warehouse receipt and on the basis of the quality of the seed determined in accordance with § 601.231.

(3) *Purchase agreements.* If the quality of the seed delivered under a purchase agreement is not guaranteed by an approved warehouseman, settlement will be made on the basis of the quantity of seed actually delivered and the quality of the seed determined in accordance with § 601.231.

(c) *Disposition of ineligible seed at time of delivery*—(1) *Farm-storage and unguaranteed warehouse-storage loans.* In the case of farm-storage and unguaranteed warehouse-storage loans, the purity analysis made at time of delivery shall be compared with the original analysis report used to determine the eligibility of the seed for loan. If the test made at time of delivery shows that the purity factors agree with the purity factors shown on the original analysis report, within the tolerances permitted under the Federal Seed Act, settlement shall be made on the basis of the original eligibility test. However, if on the basis of the purity analysis made from samples taken at time of delivery the seed does not meet the minimum purity requirements of eligibility for loan and are not within the tolerances permitted under the Federal Seed Act with respect to one or more of the purity factors shown on the original purity analysis report, the producer shall be furnished the results of the purity analysis and notified that if he does not (*a*) have the seed recleaned at his own expense to meet the minimum purity requirements of eligibility for loan; or (*b*) repay his loan and pay any expenses incurred in removing the seed from a warehouse or a CCC bin, the producer shall be liable for any deficiency on the loan after disposing of the seed as follows:

(i) In the case of salable seed, the seed shall be sold at public or private sale in accordance with section 7 (b) of the chattel mortgage or section 9 (c) of the producer's note and loan agreement.

(ii) In the case of seed which is not salable, the seed shall be disposed of at the expense of the producer.

(2) *Purchase agreements.* Except for the tolerances permitted under the Federal Seed Act in connection with the test made at the time of delivery as provided in § 601.231 (c) (2) seed which does not meet the eligibility requirements of §§ 601.228 and 601.235 will not be accepted under purchase agreements.

(d) *Refund of paid-in freight.* Where any seed delivered to CCC has been shipped by the producer, or for him, "in line," as determined by CCC, from point of origin to an approved warehouse for storage where transit privileges are in effect, freight (including transportation tax) at a rate not exceeding the lowest published rate, or the lowest transcontinental rate, where applicable, paid on the inbound rail movement will be refunded to the producer: *Provided*, That (1) the shipment has been properly registered for transit; (2) the paid railway freight bill or a validated copy thereof, representing the identical seed, is endorsed to CCC in accordance with the covering tariffs at the transit point, and turned over to CCC; (3) a freight certificate signed by the warehouseman is turned over to CCC; and (4) the refunded freight is limited to the quantity of seed shown on the warehouse receipt; and (5) whenever the support rate for the point of delivery is higher than the support rate for the point of origin shown on the freight certificate; the amount refunded shall be the freight paid on the inbound rail movement less the difference between the support rate for the point of delivery and the support rate for the point of origin. The freight certificate shall show the original shipping point, date and number of waybill, car initials and number, date and number of freight bill, name of the carrier, transit weight, and rate paid in, the total amount of freight paid, and such other information as CCC may require. Refunds for paid-in freight under this paragraph will be made by the appropriate PMA commodity office subsequent to actual delivery of the seed to CCC pursuant to a loan or purchase agreement.

Issued this 18th day of June 1953.

[SEAL] HOWARD H. GORDON,
*Executive Vice President,*
*Commodity Credit Corporation.*

Approved:

HOWARD H. GORDON,
*Acting President,*
*Commodity Credit Corporation.*

[F. R. Doc. 53-5545; Filed, June 22, 1953; 8:51 a. m.]

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[1953 Honey Bulletin 1, Amdt. 1]

## PART 624—HONEY

### SUBPART—1953 HONEY PRICE SUPPORT PROGRAM

The regulations issued by Commodity Credit Corporation and the Production and Marketing Administration published in 18 F. R. 1985 containing the requirements with respect to the 1953 Honey Price Support Program are hereby amended as follows:

Section 624.426 *PMA commodity offices* is hereby amended as follows:

§ 624.426 *PMA commodity offices.* The PMA commodity offices and the areas served by them are shown below:

Chicago 5, Illinois, 623 South Wabash Avenue: Connecticut, Delaware, District of Columbia, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, West Virginia.

Dallas 2, Texas, 1114 Commerce Street: New Mexico, Oklahoma, Texas.

Kansas City 6, Missouri, Fidelity Building, 911 Walnut Street: Colorado, Kansas, Missouri, Nebraska, Wyoming.

Minneapolis 8, Minnesota, 1006 West Lake Street: Minnesota, Montana, North Dakota, South Dakota, Wisconsin.

New Orleans 16, Louisiana, Wirth Building, 120 Marais Street: Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia.

Portland 5, Oregon, 515 Southwest Tenth Avenue: Arizona, California, Idaho, Nevada, Oregon, Utah, Washington.

(Sec. 4, 62 Stat. 1070 as amended; 15 U. S. C. Sup., 714b. Interpret or apply sec. 5, 62

Stat. 1072, secs. 201, 401, 63 Stat. 1052, 1054: 15 U. S. C. Sup., 714c, 7 U. S. C. Sup. 1446, 1421)

Issued this 18th day of June 1953.

[SEAL] HOWARD H. GORDON,
*Executive Vice President,*
*Commodity Credit Corporation.*

Approved:

HOWARD H. GORDON,
*Acting President,*
*Commodity Credit Corporation.*

[F. R. Doc. 53-5543; Filed, June 22, 1953; 8:50 a. m.]

# TITLE 9—ANIMALS AND ANIMAL PRODUCTS

## Chapter I—Bureau of Animal Industry, Department of Agriculture

Subchapter D—Exportation and Importation of Animals and Animal Products

PART 97—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

ADMINISTRATIVE INSTRUCTIONS PRESCRIBING COMMUTED TRAVEL TIME ALLOWANCES

Pursuant to the authority conferred upon the Chief of the Bureau of Animal Industry by § 97.1 of the regulations governing overtime services relating to imports and exports, effective May 8, 1952, the following administrative instructions are hereby issued to prescribe the commuted travel time that shall be included in each period of overtime as described in the said § 97.1.

§ 97.2 *Administrative instructions prescribing commuted travel time.* (a) Each period of overtime duty as prescribed in § 97.1 shall, in addition, include a commuted travel time period for the respective ports, stations, and areas in which employees are located, if such travel is performed solely on account of overtime or holiday service. The period of requested overtime outside of the regular tour of duty may necessitate the services of more than one employee or travel from another point, in which event the commuted travel period as illustrated in this section may differ depending upon the station from which the employee travels. The commuted travel time period for the respective ports, stations and areas is as follows:

*One Hour*

Alburg, Vt. (served from St. Albans, Vt.).
Alexandria Bay, N. Y. (served from Clayton, N. Y.).
Brownsville, Tex.
Buffalo, N. Y.
Calexico, Calif. (served from El Centro, Calif.).
Del Rio, Tex.
Derby Line, Vt. (served from Newport, Vt.).
Douglas, Ariz.
Eagle Pass, Tex.
El Paso, Tex.
Galveston, Tex.
Highgate Springs, Vt. (served from St. Albans, Vt.).
Hidalgo, Tex.
Honolulu, T. H.
Houlton, Maine.
Laredo, Tex.
Lynden, Wash.
Monticello, Maine (served from Houlton, Maine).
Mooers Junction, N. Y. (served from Champlain, N. Y.).
Morristown, N. Y. (served from Ogdensburg, N. Y.).
Naco, Ariz.
Newport, Vt.
Nogales, Ariz.
North Troy, Vt. (served from Newport, Vt.).
Noyes, Minn. (served from Pembina, N. Dak.).
Ogdenburg, N. Y.
Pembina, N. Dak.
Portal, N. Dak.
Presidio, Tex.
Port Huron, Mich.
Rio Grande, Tex.
Roma, Tex.
Rouses Point, N. Y. (served from Champlain, N. Y.).
San Juan, P. R.
St. Albans, Vt.
Spokane, Wash.
Sweetgrass, Mont.

*Two Hours*

Blaine, Wash. (served from Lynden, Wash.).
Bridgewater, Maine (served from Houlton, Maine).
Hidalgo, Tex. (served from Brownsville, Tex.).
Island Pond, Vt. (served from Newport, Vt.).
Jacksonville, Fla.
Miami, Fla.
Naco, Ariz. (served from Douglas, Ariz.).
Niagara Falls, N. Y. (served from Buffalo, N. Y.),
Portland, Oreg.
Richford, Vt. (served from St. Albans, Vt.).
San Diego, Calif.
San Ysidro, Calif. (served from San Diego, Calif.).
Sumas, Wash. (served from Lynden, Wash.).
Tacoma, Wash. (served from Olympia, Wash.).
Tampa, Fla.
Waddington, N. Y. (served from Ogdensburg, N. Y.).

*Three Hours*

Baltimore, Md.
Beechers Falls, Vt. (served from Newport, Vt.).
Boston, Mass.
Calais, Maine (served from Houlton, Maine).
Chateaugay, N. Y. (served from Champlain, N. Y.).
Columbus, N. Mex. (accommodation port to be served from El Paso, Tex.).
Del Rio, Tex. (served from Eagle Pass, Tex.).
Detroit, Mich.
Eastport, Idaho (served from Spokane, Wash.).
Eastport, Maine (served from Houlton, Maine).
Fort Covington, N. Y. (served from Ogdensburg, N. Y.).
Fort Fairfield, Maine (served from Houlton, Maine).
Fort Kent, Maine (served from Houlton, Maine).
Hogansburg, N. Y. (served from Ogdensburg, N. Y.).
Holeb, Maine (served from Augusta, Maine).
Jackman, Maine (served from Augusta, Maine).
Laredo, Tex. (served from San Antonio, Tex.).
Limestone, Maine (served from Houlton, Maine).
Los Angeles, Calif.
Madawaska, Maine (served from Houlton, Maine).
Malone, N. Y. (served from Champlain, N. Y.).
New Orleans, La.
New York, N. Y.
Nogales, Ariz. (served from Tucson, Ariz.).
Oroville, Wash. (served from Okanagan, Wash.).
Porthill, Idaho (served from Spokane, Wash.).
Presidio, Tex. (served from El Paso, Tex.).
Rio Grande City, Tex. (served from Brownsville, Tex.).
Roma, Tex. (served from Brownsville, Tex.).
Rooseveltown, N. Y. (served from Ogdensburg, N. Y.).
San Francisco, Calif.
Sault Ste. Marie, Mich. (served from Lansing, Mich.).
Sasabe, Ariz. (accommodation port to be served from Tucson, Ariz.).
Seattle, Wash.
Van Buren, Maine (served from Houlton, Maine).
Vanceboro, Maine (served from Houlton, Maine).

(b) These commuted travel time periods have been established as nearly as may be practicable to cover the time necessarily spent in reporting to and returning from the place at which the employee performs such overtime when such travel is performed solely on account of such overtime duty. Such establishment depends upon facts within the knowledge of the Bureau of Animal Industry.

It is to the benefit of the public that this amendment be made effective at the earliest practicable date. Accordingly, pursuant to the provisions of section 4 of the Administrative Procedure Act (60 Stat. 238) it is found upon good cause that notice and public procedure on this amendment are impracticable, unnecessary, or contrary to the public interest, and good cause is found for making this amendment effective less than 30 days after publication.

These administrative instructions shall be effective July 5, 1953.

(64 Stat. 561; 5 U. S. C. 576)

Done at Washington, D. C., this 8th day of June 1953.

[SEAL] B. T. SIMMS,
*Chief,*
*Bureau of Animal Industry.*

[F. R. Doc. 53-5531; Filed, June 22, 1953; 8:49 a. m.]

# TITLE 14—CIVIL AVIATION

## Chapter II—Civil Aeronautics Administration, Department of Commerce

[Amdt. 13]

PART 600—DESIGNATION OF CIVIL AIRWAYS

ALTERATIONS

The civil airway alterations appearing hereinafter have been coordinated with the civil operators involved, the Army, the Navy, and the Air Force, through the Air Coordinating Committee, Airspace Subcommittee and are adopted to become effective when indicated in order to promote safety of the flying public. Compliance with the notice, procedures, and effective date provisions of section 4 of the Administrative Procedure Act would be impracticable and contrary to public interest and therefore is not required. Part 600 is amended as follows:

1. Section 600.6006 is amended by changing the caption to read: *"VOR civil*

*airway No. 6 (Oakland, Calif., to Allentown, Pa.)"* and by changing all after Selinsgrove, Pa., omnirange station to read: "Selinsgrove, Pa., omnirange station to the Allentown, Pa., omnirange station."

2. Section 600.6030 is amended by changing the caption to read: *"VOR civil airway No. 30 (Milwaukee, Wis., to Allentown, Pa.)"* and by changing all after Selinsgrove, Pa., omnirange station to read: "Selinsgrove, Pa., omnirange station to the Allentown, Pa., omnirange station."

3. Section 600.6034 is amended to read:

§ 600.6034 *VOR civil airway No. 34 (Rochester N. Y., to Wilton, Conn.)* From the Rochester, N. Y., omnirange station via the Binghamton, N. Y., omnirange station; intersection of the Binghamton omnirange 110° True and the Wilton omnirange 300° True radials to the Wilton, Conn., omnirange station.

(Sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425. Interpret or apply sec. 302, 52 Stat. 985, as amended; 49 U. S. C. 452).

This amendment shall become effective 0001 e. s. t. June 23, 1953.

[SEAL] F. B. LEE,
*Administrator of Civil Aeronautics.*

[F. R. Doc. 53-5516; Filed, June 22, 1953; 8:45 a. m.]

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[Amdt. 12]

## PART 601—DESIGNATION OF CONTROL AREAS, CONTROL ZONES, AND REPORTING POINTS

### ALTERATIONS

The control area, control zone and reporting point alterations appearing hereinafter have been coordinated with the civil operators involved, the Army, the Navy, and the Air Force, through the Air Coordinating Committee, Airspace Subcommittee, and are adopted to become effective when indicated in order to promote safety of the flying public. Compliance with the notice, procedures, and effective date provisions of section 4 of the Administrative Procedure Act would be impracticable and contrary to public interest and therefore is not required. Part 601 is amended as follows:

1. Section 601.1030 *Control area extension (Victorville, Calif.)* is amended by adding the following portion to present control area extension: "and the airspace north of the George AFB bounded by a line beginning at lat. 35°11'00" long. 117°12'00" thence to lat. 34°57'00" long. 117°12'00" thence to lat. 34°54'45" long. 116°53'45" thence along the northern boundary of Green civil airway No. 4 to lat. 34°49'00" long. 117°29'00", thence to lat. 35°11'00", long. 117°24'00" thence to point of beginning."

2. Section 601.1286 is amended to read:

§ 601.1286 *Control area extension (Fort Worth, Tex.)* That airspace between Waco, Tex., Mineral Wells, Tex., and Ardmore, Okla., bounded on the east by Amber civil airway No. 4 and on the southwest, west and northwest by Blue civil airway No. 70; that airspace between Mineral Wells, Tex., Abilene, Tex., and Wichita Falls, Tex., bounded on the east by Blue civil airway No. 70, on the south by Green civil airway No. 5, on the northwest by Blue civil airway No. 6, and on the northeast by Red civil airway No. 10; that airspace between Waco, Tex., Dallas, Tex., and Ardmore, Okla., bounded on the east and northeast by Blue civil airway No. 5 and on the southwest and west by Amber civil airway No. 4.

3. Section 601.1340 is added to read:

§ 601.1340 *Control area extension (Miles City, Mont.)* Within 5 miles either side of the northwest course of the Miles City, Mont., radio range extending from the radio range station to a point 30 miles northwest.

4. Section 601.1341 is added to read:

§ 601.1341 *Control area extension (Danville, Ill.).* That airspace bounded on the northwest by Red civil airway No. 17, on the northeast by Red civil airway No. 42 and Red civil airway No. 14, on the east and southeast by Blue civil airway No. 3, and on the southwest by Blue civil airway No. 34.

5. Section 601.1984 *Five mile radius zones* is amended by adding the following airport:

Plattsburg, N. Y.. Plattsburg Municipal Airport.

and by deleting the following airport:

Phoenix, Ariz.. Sky Harbor Municipal Airport.

6. Section 601.2180 is amended to read:

§ 601.2180 *Oakland, Calif., control zone.* Within a 5-mile radius of the Oakland Municipal Airport, within 2 miles on the northeast side and 5 miles on the southwest side of the northwest course of the Oakland radio range extending from the radio range station to a point 10 miles northwest, within 8 miles on the northwest side and 3¾ miles on the southeast side of the southwest course of the Oakland radio range extending from the radio range station to a point 6 miles southwest, and within 2 miles either side of the southeast course of the Oakland radio range extending from the radio range station to the Newark fan marker.

7. Section 601.2187 is amended to read:

§ 601.2187 *San Francisco, Calif., control zone.* Within a 5-mile radius of San Francisco International Airport, within 2 miles either side of the northwest course of the San Francisco radio range extending from the radio range station to a point 10 miles northwest, within 10 miles on the northwest side and 2 miles on the southeast side of the northeast course of the San Francisco radio range extending from the radio range station to a point 6 miles northeast, and within 2 miles either side of the southeast course of the San Francisco radio range extending from the radio range station to the Belmont fan marker.

8. Section 601.2322 *Fort Worth, Tex., control zone* is amended by deleting the following: "excluding the portion in conflict with the Dallas caution area (C-213)."

9. Section 601.2323 *Grand Prairie, Tex., control zone* is amended by deleting the following: "excluding the portion in conflict with the Dallas caution area (C-213)."

10. Section 601.2338 is added to read:

§ 601.2338 *Phoenix, Ariz., control zone.* Within a 5-mile radius of Sky Harbor Municipal Airport, Phoenix, Ariz., and within 2 miles either side of the east course of the Phoenix radio range extending from the radio range station to a point 10 miles east.

11. Section 601.2339 is added to read:

§ 601.2339 *Douglas, Ariz., control zone.* Within a 5-mile radius of the Douglas-Bisbee International Airport and within 2 miles either side of the northwest course of the Douglas radio range extending from the radio range station to a point 10 miles northwest.

12. Section 601.4230 *Red civil airway No. 30 (Shreveport, La., to Jacksonville, Fla.)*, is amended by adding the following reporting point: "the intersection of the east course of the Tallahassee, Fla., radio range and a line bearing 180° True from the Valdosta, Ga., non-directional radio beacon."

13. Section 601.6006 is amended to read:

§ 601.6006 *VOR civil airway No. 6 control areas (Oakland, Calif., to Allentown, Pa.).* All of VOR civil airway No. 6 including north and south alternates.

14. Section 601.6030 is amended to read:

§ 601.6030 *VOR civil airway No. 30 control areas (Milwaukee, Wis., to Allentown, Pa.)* All of VOR civil airway No. 30 including a north and a south alternate.

15. Section 601.6034 is amended to read:

§ 601.6034 *VOR civil airway No. 34 control areas (Rochester N. Y., to Wilton, Conn.).* All of VOR civil airway No. 34.

16. Section 601.7001 *Domestic VOR reporting points* is amended by adding the following reporting points:

*Golden Gate intersection:* The intersection of the San Francisco, Calif., omnirange 307° True and the Oakland, Calif., omnirange 275° True radials (and the southwest course of the Travis AFB, Fairfield, Calif., radio range).

*Half-Moon Bay intersection:* The intersection of the Oakland, Calif., omnirange 217° True, the Salinas, Calif., omnirange 319° True and the San Francisco, Calif., omnirange 231° True radials.

*Newburgh intersection:* The intersection of the Wilton, Conn., omnirange 300° True and the Poughkeepsie, N. Y., omnirange 234° True radials.

*Richmond intersection:* The intersection of the Sacramento, Calif., omnirange 232° True and the Oakland, Calif., omnirange 328° True radials.

*San Bruno intersection:* The intersection of the San Francisco, Calif., omnirange 303° True and the Oakland, Calif., omnirange 218° True radials.

*Saratoga intersection:* The intersection of the Salinas, Calif., omnirange 319° True and the San Francisco, Calif., omnirange 224° True radials.

(Sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425. Interprets or applies sec. 601, 52 Stat. 1007, as amended; 49 U. S. C. 551)

This amendment shall become effective 0001 e. s. t. June 23, 1953.

[SEAL] F B. LEE,
*Administrator of Civil Aeronautics.*

[F. R. Doc. 53-5517; Filed, June 22, 1953; 8:45 a. m.]

## TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

### Chapter I—Veterans' Administration

PART 4—DEPENDENTS AND BENEFICIARIES CLAIMS

REMARRIAGE OR DEATH OF WIDOW

In § 4.86, paragraph (b) (2) is amended to read as follows:

§ 4.86 *Public No. 2, 73d Congress (act of March 20, 1933) as amended, sections 28 and 31, Title III, Public No. 141, 73d Congress (act of March 28, 1934), as amended; Public No. 484, 73d Congress (act of June 28, 1934) as amended; and Public Law 301, 79th Congress (act of February 18, 1946)*

* * *

(b) *Remarriage or death of widow.*

* * *

(2) Discontinuance of pension or compensation because the widow has failed to establish that she continues to be unremarried shall be effective the day preceding the date of the indicated change of status or the date of last payment, whichever is the later: *Provided,* That where an additional amount of pension or compensation is payable for periods prior to the date of the indicated change of status, any amounts which have been paid for periods subsequent to the date of the indicated change of status will be recouped from such additional payment.

* * * * * *

(Sec. 5, 43 Stat. 608, as amended, sec. 2, 46 Stat. 1016, sec. 7, 48 Stat. 9; 38 U. S. C. 11a, 426, 707)

This regulation is effective June 23, 1953.

[SEAL] H. V STIRLING,
*Deputy Administrator*

[F. R. Doc. 53-5540; Filed, June 22, 1953; 8:50 a. m.]

## TITLE 43—PUBLIC LANDS: INTERIOR

### Chapter I—Bureau of Land Management, Department of the Interior

[Circular 1849]

PART 115—REVESTED OREGON AND CALIFORNIA RAILROAD AND RECONVEYED COOS BAY WAGON ROAD GRANT LANDS IN OREGON

SALE OF TIMBER ON O. & C. LANDS

1. Section 115.39 is amended to read:

§ 115.39 *Sale and appraisal.* (a) All timber to be sold under the provisions of the act of August 28, 1937 shall be appraised and in no case shall be sold at less than the appraised price. Such timber shall be sold to a responsible, qualified purchaser under the appropriate form of contract. All sales, other than those specified in paragraphs (b) (c) and (d) of this section, shall be made only after inviting competitive bidding through publication and posting and the submission of either sealed or oral bids.

(b) When the signing officer determines that it is unlikely that competitive interest exists, he may, in his discretion, without publishing, posting, or calling for bids, sell to or for the benefit of any one qualified purchaser, in any twelve consecutive month period, (1) timber on the revested and reconveyed lands not to exceed an estimated volume of 100 M bd. ft., or (2) other forest products on such land, the estimated appraised value of which is not more than the current average market value of 100 M bd. ft. of O. and C. timber.

(c) When thinning or sanitation cutting on small isolated tracts of mature or overmature timber in the judgment of the signing officer is required, he may sell the timber or other forest products to be removed for such purpose without publishing, posting, or calling for bids. There shall be no limitation on the number of such noncompetitive sales which may be made to one purchaser in any given twelve month period, but no such sale shall exceed an estimated volume of 100 M bd. ft. or, for forest products, an equivalent value.

(d) The signing officer may without publishing, posting, or calling for bids sell to the holder of an O. and C. timber sale contract up to 500 M bd. ft. of windthrown, insect-damaged, or fire-killed timber which is on or adjacent to the contract area when in his judgment such sale is in the public interest.

2. Paragraph (a) of § 115.42 is amended to read as follows:

§ 115.42 *Publication and posting.* (a) In addition to the advertisement described in § 115.41, notice of any proposed competitive sale must be published prior to the time of such sale at the expense of the Government. The notice of sale of timber on revested and reconveyed lands shall be published on the same day weekly for at least two consecutive weeks in a newspaper published within the marketing area in which the timber is located (as established by the Secretary of the Interior) In the case of salvage sales of wind-thrown, insect-damaged or fire-killed timber, the notice shall be published at least once and the sale shall be held not less than one week after such publication.

(Sec. 5, 50 Stat. 875)

ORME LEWIS,
*Acting Secretary of the Interior*

JUNE 16, 1953.

[F. R. Doc. 53-5519; Filed, June 22, 1953; 8:46 a. m.]

# PROPOSED RULE MAKING

## DEPARTMENT OF AGRICULTURE

### Production and Marketing Administration

### [ 7 CFR Part 911 ]

[Docket No. AO-244]

HANDLING OF MILK IN CENTRAL MISSISSIPPI MARKETING AREA

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS THERETO WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND ORDER

Pursuant to the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision of the Assistant Administrator, Production and Marketing Administration, United States Department of Agriculture, with respect to a proposed marketing agreement and order regulating the handling of milk in the Central Mississippi marketing area, to be made effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.)

Interested parties may file exceptions to this recommended decision with the Hearing Clerk, Room 1353, South Building, United States Department of Agriculture, Washington, D. C., not later than the close of business on the 20th day after the publication of this recommended decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

*Preliminary statement.* A public hearing on the record of which the recommended marketing agreement and order were formulated was called by the Production and Marketing Administration, United States Department of Agriculture, following receipt of a petition filed by the Central Sales Committee, Jackson, Mississippi, on behalf of Jones County Dairy Association, Jackson Grade A Dairy Producers' Association, and Hattiesburg Dairymen's Association. The hearing was held at Jackson, Mississippi, January 6-14, 1953, pursuant to notice duly published in the FEDERAL REGISTER on December 19, 1952 (17 F R. 11599) The period from January 14 to March 1, 1953, was reserved

to interested parties for the filing of briefs on the record.

The material issues of record related to:

1. Whether the handling of milk in the market is in the current of interstate commerce or directly burdens, obstructs or affects interstate commerce in milk or its products;

2. Whether marketing conditions justify the issuance of a marketing agreement or order; and

3. If an order is issued what its provisions should be with respect to:

(i) The scope of regulation;

(ii) The classification of milk;

(iii) The level and method of determining class prices;

(iv) The method to be used in distributing proceeds to producers; and

(v) Administrative provisions.

*Findings and conclusions.* Upon the evidence adduced at the hearing and the record thereof, it is hereby found and concluded that:

1. *Character of commerce.* Milk which would be regulated under the proposed marketing agreement and order is in the current of interstate commerce or directly burdens, obstructs or affects interstate commerce in milk or its products.

The marketing area specified in the proposed order, hereinafter known as the Central Mississippi marketing area, includes all of the territory within the counties of Hinds, Madison, Rankin, Warren, Jones, Marion, and the major portion of Forrest County, all located in the State of Mississippi. Approximately 700 dairy farmers, located in 31 Mississippi counties, supply more than 80 million pounds of milk annually to fluid milk plants primarily for disposition to consumers in this area.

This milk is purchased in competition with milk which is marketed outside the State of Mississippi and is sold in competition with milk or milk products produced in other states. Handlers who would be regulated under the proposed order find it necessary in order to fill the needs of their fluid or Class I markets to supplement the milk received from producers with milk or products of milk from outside sources. These supplemental supplies are handled in the same plants and commingled with producer milk. The supplemental supplies may, and do, come from sources outside the State of Mississippi. The record discloses that handlers serving the Central Mississippi marketing area import dry milk solids to supplement local supplies. Such imports are used primarily to produce, or build up solids content of, buttermilk and chocolate milk drinks. These two products made up more than 12 percent of the total sales of fluid milk and fluid milk products by handlers. The State Health Regulations require that milk solids used for such purposes be derived from Grade A milk. At the present time plants located in the Chicago and Wisconsin areas have been approved by the Mississippi Health Department as sources of supply. Complete data on the volume of nonfat solids which is used by handlers in the proposed marketing area are not available. The record shows however, that nearly all the handlers are using such supplemental supplies and that their use is more frequent during the fall and winter months when producer receipts are lowest. A comparison of record data showing receipts and sales in the different sections of the proposed marketing area indicates that substantial quantities of nonfat solids are used. In the Jackson market, for example, during January and the months of October through December of 1951, handlers sold an average of 230,000 pounds monthly of fluid milk and fluid milk products, including cream, in excess of their total receipts of fluid milk from producers and plants both in and out of the state. Fluid sales in the Laurel-Ellisville portion of the marketing area also exceeded fluid receipts during three months of 1951. Under the health regulations, such differences would need be derived from nonfat solids from Grade A sources in the Chicago or Wisconsin areas. Although these comparisons do not reflect the full extent of the use of Grade A nonfat solids, they nevertheless show that substantial quantities of milk sold by handlers are derived from interstate sources.

Approvals to ship Grade A milk into Mississippi have been extended by the State Health Department to plants in several States, including Wisconsin, Indiana and Ohio. Health Department officials testified that Grade A bulk milk shipments have been received in the proposed area in the past from these plants when required.

Data summarized by the Farm Credit Administration from voluntary reports of 10 plants located in the States of Wisconsin and Indiana showed that 436,600 pounds of nonfat solids were sold during the first 11 months of 1952 to distributors located in 16 Mississippi cities and towns, which included Vicksburg, Jackson and Laurel. Grade A fluid milk was imported by distributors located in these same areas during the two years prior to the date of the hearing. In 1952 nearly a half million pounds and in 1951 slightly less than one-third of a million pounds of Grade A milk was so imported. It is evident that this milk was either imported by or distributed in competition with milk of handlers serving the Central Mississippi marketing area.

Milk purchased for sale in the proposed marketing area is bought in competition with milk disposed of in other states. During December 1952, there were 700 producers supplying Grade A milk to handlers in the proposed marketing area. Of this number, approximately 360 were located in counties that formed a Grade A milkshed which served plants directly engaged in the interstate shipment of milk. Thus, approximately 50 percent or nearly 40 million pounds of the milk received annually by the handlers' plants serving the proposed marketing area is purchased from Grade A farms in direct competition with plants making interstate shipments of milk. All Mississippi producers of Grade A milk must conform to the health inspection requirements of the State Board of Health, which is uniform throughout the state. It is relatively easy, by virtue of their location and health approval, for such farmers to shift their sales of milk between these alternative outlets in response to prices offered. The record shows that there has been substantial shifting of producers to different plants in those counties where producers have such alternative outlets. Important competition of this nature occurs in the southern portion of the state. Four plants located in the southern portion of the Central Mississippi milkshed supply milk to New Orleans handlers. These plants are regulated under Federal Order No. 42. Another plant located in this same area sends a substantial proportion of its milk to Texas markets for fluid use.

These five plants receive milk from more than 1,200 producers, most of whom are located in Mississippi. More than 400 of these producers are located in Walthall, Lincoln, Forrest, Marion, and Lamar counties. More than 150 Central Mississippi producers are located in these counties.

A Gulf Coast handler who distributes milk on routes extending into Mobile County, Alabama, also competes for milk supplies from producers in the southern portion of the milkshed. Central Mississippi area handlers sell milk to various outlets, including military installations, in competition with Gulf Coast and other distributors located in Alabama.

A plant located in the northeastern portion of the Central Mississippi milkshed sells milk in the current of interstate commerce. This plant, which is operated by a cooperative association of producers, sells some of its milk to Mississippi handlers and much of the remainder goes to distributors in Alabama and Louisiana. This plant receives milk from farmers in four counties where more than 150 producers supplying Central Mississippi handlers are located.

It is evident therefore, that the prices paid by the plants which would be subject to the proposed order are affected by and have a direct effect upon the prices and quantities of fluid milk which is moved in interstate commerce.

Fluid milk handlers compete for milk supplies with nearby manufacturing plants selling manufactured milk products in interstate commerce. There are three such manufacturing plants located in, or adjacent to, the production area from which the Central Mississippi marketing area draws its milk supply. A cheese plant is located in Newton County. A plant engaged in the condensing and drying of milk solids, butter manufacturing and the production of ungraded cream is located in Lincoln County. The parent company of a fluid milk plant, which also manufactures ice cream mix in Jackson, operates a condensery located in Attala County. These manufacturing plants purchase ungraded milk from dairy farmers who are located in the same area that supplies Grade A milk for the marketing area. The products manufactured in these plants are disposed of both in and outside the State of Mississippi.

The record shows that when fluid milk plants located in the proposed marketing area have Grade A milk in excess of their needs for fluid uses, part of such excesses are used in the manufacture of ice cream and ice cream mix and the remainder of

such milk is disposed of to manufacturing plants. Ice cream and ice cream mix are not required to be made from Grade A milk under the regulations of the State Board of Health, and therefore, graded milk used for such purposes is in direct competition with ungraded milk. Handlers disposed of approximately 2.5 million pounds of milk and cream derived from Grade A milk to manufacturing plants during the flush production months of 1951, the most recent date available at the time of the hearing. In addition to such milk and other milk purchased from ungraded producers, the plants located in Attala and Lincoln counties also purchased Grade A milk from the New Orleans market during the flush production season with the Attala County plant receiving additional supplies of milk from Tennessee. Thus, milk from the proposed marketing area is commingled at these manufacturing plants with ungraded milk and milk from other areas outside of Mississippi. The products manufactured from such milk are sold in other States and within Mississippi in competition with similar products produced in other States.

It is concluded, therefore, that the record evidence shows that milk which would be regulated under the proposed marketing agreement and order is in the current of interstate commerce and directly burdens, obstructs and affects interstate commerce in milk and its products.

2. *Marketing conditions.* The issuance of a marketing agreement or order will tend to effectuate the declared policy of the act.

The testimony on marketing conditions and practices in the proposed marketing area was presented at the hearing by three associations representing producer-members in the proposed marketing area. These three associations formed an organization, identified as the Central Sales Committee, in order to coordinate their activities for the purpose of achieving stability of marketing conditions in the area.

The problems encountered by producers in marketing milk and in providing an adequate supply for Central Mississippi are not uncommon in fluid milk markets. The problems, which have resulted in unrest and instability in this area, are similar to those characterestic of the fluid milk industry in the absence of regulations or a well defined marketing plan. Attempts on the part of producers to establish such a plan have been ineffective.

Milk, because of its perishability, must be delivered regularly to the market as it is produced. Farmers cannot retain milk on their farms in order to await favorable price conditions. Production of milk for fluid use, under the sanitary requirements prevailing in the proposed marketing area, requires substantial investment and heavy operating costs. This is equally true with respect to the maintenance of a satisfactory level of a supply during the normally short fall and winter months.

A certain amount of reserve milk in excess of actual trade sales is necessary to assure an adequate suply of milk at all times. Fluctuations brought on by the seasonal nature of milk production coupled with a relatively uniform pattern of consumption, necessitates the disposition of some of the Grade A milk produced for the market into manufacturing channels. Such excess milk must be manufactured into products and sold in competition with similar products produced from ungraded milk. Milk marketed in this manner returns considerably less than that marketed for fluid use. Consequently a well defined and uniformly applied plan of use classification and the proper pricing of milk in such uses is necessary to prevent such excess milk from depressing the market price of all milk required. To be successful, the classification of milk in accordance with its use and the payments to producers on a use basis, requires full participation and cooperation of those engaged in the industry.

Orderly marketing of the milk produced for fluid consumption requires uniformly dependable methods for determining prices according to the use made of the milk. It also requires uniformity of pricing according to the use made of milk by each handler, and a means whereby lower average returns resulting from surplus may be borne equitably among producers. The buying practices of handlers in the area are among the several factors causing instability in the marketing of milk. Producers have no means of ascertaining what the utilization is made of milk by their handlers. Payment for milk is frequently made on whatever basis a handler may choose to use. Payments at substantially reduced surplus prices by handlers for milk, which producers believe was needed for such handlers fluid sales, is one of the sources of instability and uncertainty in the market.

The record shows that on at least one occasion producers being notified that a surplus of milk existed in the area, located an outlet which would have taken their excess milk at a price level higher than that prevailing among the local handlers. The producers attempted to make the necessary arrangements to transfer the milk but the handlers refused to make it available. This, of course, resulted in depressed returns to the producers involved.

There is no overall plan operating in the Central Mississippi Area which will assure producers of payment for their milk in accordance with its utilization and proper classification. Some handlers follow a form of the classified price plan. However, the products included in each class vary among handlers. Other handlers do not use a classified pricing plan, but have at times used the base and excess payment plan as a substitute for a classified pricing plan, although, of course, using a base plan in this way does not result in uniformity of milk cost among handlers in the same way that a classified price plan does. Moreover, there is no uniformity in the so-called base and surplus payment plans as operated by the various handlers. Handlers in the area differ in their methods of establishing base forming periods. There is lack of uniformity in the base rules of the various handlers, as applied to new producers who enter the market or producers who transfer from one handler to another. The methods of operating these plans are solely subject to the decisions of handlers. All of these factors contribute to marketing instability and price uncertainty with the effect that returns to producers are reduced and production decisions are affected.

Producers have no voice in the determination of the prices which handlers pay. Attempts by producers to bargain for prices have met with failure. Generally speaking, producers have been forced to deal with handlers on an individual basis. Handlers have failed or refused to meet with representatives of organized producers for the purpose of discussing prices. Most handlers merely announce a price or prices to be paid.

Producers have shifted to other markets and many have discontinued production. This indicates considerable instability in the market. Producers need assurance that their returns for milk will reflect general economic conditions and also be in accordance with local supply and demand conditions. A definite and uniform method of establishing minimum class prices which handlers would be required to pay for milk, in accordance with its use, would give this assurance. Dairy farmers could then plan their production on a long range basis and contribute to the assurance of an adequate supply of milk for the market.

Fluid milk producers, in general, are dissatisfied with the weights and butterfat tests reported to them by handlers. The State Department of Agriculture is charged with enforcement of a State Dairy and Creamery Law but has only four men available for making the necessary plant inspections, and for check-testing milk of all dairy farmers in the state. These four men are responsible for this work for approximately 75 scattered plants. Because of this limited staff, the check testing of samples must be limited primarily to a follow-up on complaints received from individual dairy farmers. The producers association were successful in initiating a check testing program at only two plants. In one instance, a service charge was made by a handler for making the producers' authorized check-off. The failure of the handlers to cooperate with producers in making the check-offs necessitated the discontinuation of the associations testing program.

The record indicates that there is a lack of detailed market information for this area. Such information is essential to the effectuation of orderly marketing. It is essential in achieving a level of Grade A milk production commensurate with consumer demand for Grade A fluid products. There are available in April of each year State Department of Agriculture data on receipts and utilization of milk for fluid and manufactured uses for the previous year. This information, however, it not fully satisfactory to the needs of the market, since current monthly data are required by both handlers and producers to evaluate changes

in supply and demand conditions for the purpose of arriving at appropriate prices.

It is concluded that the issuance of a marketing agreement and order for the Central Mississippi Marketing Area would contribute substantially to the improvements of many of the conditions complained of and tend to effectuate the declared policy of the act. Namely, to establish and maintain, by means of the regulatory provisions expressly provided for in the act for such purposes, such orderly marketing conditions in the area as will tend to establish prices to the producers of milk for the marketing area at a level as will reflect the factors set forth in section 8 (c) (18) of the act, insure a sufficient quantity of pure and wholesome milk for the marketing area, and be in the public interest.

3. *Marketing area.* The Central Mississippi marketing area should include all territory within the boundaries of the counties of Hinds, Warren, Rankin, Jones, Marion and Madison and Forrest County except Beat 5 of Forrest County. The city of Jackson and nearby suburban areas account for a subsantial proportion of the population of Hinds, Rankin, and Madison counties. In Jones County, Laurel and Ellisville are the largest urban centers, while Vicksburg, Hattiesburg, and Columbia are the largest population centers in Warren, Forrest, and Marion counties, respectively. The boundaries of the marketing area should be such as to cover the areas in which there is the greatest concentration of population that represents the principal sales outlets for milk proposed to be regulated. The marketing area should be defined on the basis of counties rather than by cities or towns contained therein, because of the relatively large population adjacent to, but outside of, corporate limits of these cities and towns. All municipal corporations, Federal and State installations and facilities located in these counties should be included. Identical State health regulations, with respect to the production and sale of milk, are applied on a county-wide basis throughout the proposed area.

Although the proposed marketing area contains three noncontiguous segments, they, in fact, comprise a single marketing area for purposes of regulation, because there is a community of competition by handlers for milk sales among and within the three areas. A handler in Warren County sells milk in the Hinds County area. A Hinds County handler sells on wholesale and retail routes in Hinds, Warren, Rankin and Madison counties, while a handler in Rankin County competes for fluid sales in Hinds and Simpson counties. Of the three handlers in Forrest County one of them competes for sales in Lamar and Simpson counties with a Marion County handler who also distributes on routes in Simpson, Lamar and Forrest counties. Competition also exists between handlers in Rankin and Forrest counties for sales in Simpson County. The Health Department's uniform regulations throughout the state assures that the handlers may compete freely throughout the whole area proposed for regulation because of the homogenous quality of the product distributed.

One handler proposed that 36 of the 82 counties in the State of Mississippi be included in the marketing area, while another handler proposed the incorporation of 30 counties. The record shows that neither these handlers nor other handlers who would be subject to regulation under the proposed order distribute milk in several of these additional counties. It was testified that the inclusion of the 36 counties in the marketing area, as proposed by one handler, would bring under the order only two additional handlers. These handlers are located more than 100 miles northwest of the city of Jackson, located in Washington County. In addition, to these two, there is another handler who now distributes milk in Jackson. Dairy farmers supplying these three distributors are not intermingled with producers supplying the proposed seven county area.

The extension of the marketing area to include Washington and other counties, would serve no material purpose since these counties cannot be considered as being associated to any great extent with the proposed marketing area. Proposed counties not included in the recommended marketing area are sparsely populated. Distribution of milk in any of these counties, therefore, represents a relatively small proportion of the total milk distribution of handlers doing business in the proposed area.

It is not administratively feasible and is unnecessary to include within the marketing area all of the territories in which dairy farms of producers are located or all of the counties in which handlers may be distributing any portion of their sales of milk or milk products. It would be impossible to define a marketing area where no overlapping of sales areas would be involved. If the marketing area were to be extended to include the entire area in which regulated handlers distribute milk there would be no practical limit as to how far the area would have to be extended.

In order that the scope of the regulation not be unnecessarily extended, Beat 5 of Forrest County should not be included in the marketing area. This civil division of Forrest County has a population of 2,207, according to the 1950 census, or slightly less than 5 percent of the total population of Forrest County. More than half of the sales of milk in Beat 5 are supplied by a milk distributor located on the Gulf Coast and the balance is sold by a handler who will be subject to the order by virtue of sales in other portions of the proposed area. The volume of milk that is distributed in Beat 5 is relatively small compared with the overall volume distributed by the additional handlers who would be affected if Beat 5 were to be included in the marketing area.

Historically, Gulf Coast handlers have paid substantially higher prices for milk than have handlers located in the proposed marketing area. So long as this relationship continues, regulated milk will not be at a disadvantage in competing for sales in the areas where handlers from the two areas compete. It would appear unnecessary, therefore, to extend the regulation to Gulf handlers and require all of their milk to be regulated because a small portion of their total sales is distributed in Beat 5.

4. *Scope of the regulation.* In order to designate clearly the milk to be subject to the pricing provisions of the order, the processors or distributors to be subject to regulation, and the dairy farmers to be pooled, it is necessary to include definitions of fluid milk plant, handler, producer, producer-handler, and other source milk.

The minimum class prices of the order should apply to that milk eligible for distribution as Grade A milk in the marketing area which is received from dairy farmers at plants primarily engaged in supplying fluid milk on retail and wholesale outlets in the marketing area. Order prices should not apply to so-called emergency or irregular shipments nor to reserve milk which might be transferred from other plants to a regulated handler during the season of flush production.

Milk sold for fluid consumption in the State of Mississippi must meet the Grade A inspection requirements of the Mississippi State Board of Health. This agency, through its county sanitary supervisors, issues permits to dairy farmers and to milk plants supplying Grade A milk in the state. The state requirements are based on the United States Public Health Ordinance and Code. Fluid milk may be imported into Mississippi for fluid consumption, provided that such milk meets the standards of the United States Public Health Ordinance and originates from a market with a United States Public Health Service rating of 90 or more. A permit to furnish imported milk must be obtained from the Mississippi State Board of Health by the supplier of such milk. It is not possible, therefore, to establish the identity of the milk plants and their producers which are associated regularly with the function of supplying fluid milk to this market on the basis of permits or approval by the State Board of Health.

All milk plants which make distribution of Grade A fluid milk within the marketing area should be subject to the regulation although those operated by producer-handlers may be only regulated in part. "Fluid milk plant" should be defined, therefore, to include all milk plants which distribute Grade A milk and milk products in the marketing area, together with the country receiving stations which regularly supply such plants with Grade A milk. The distribution of Grade A milk and milk products is intended to include, but is not limited to, delivery on wholesale or retail routes (including plant stores and sales to persons sometimes referred to as "peddlers" or "vendors" who do not operate a plant) to consumers, stores, hotels, restaurants, or any other establishments in the marketing area which are not primarily engaged in the handling and processing of milk and milk products.

The record shows that the operators of certain processing or bottling plants in the marketing area receive part of their milk supply at receiving stations operated by them at points outside the marketing area. Usually all of the milk received at these stations is moved to

bottling plants located in the marketing area. During the flush production season, however, sufficient milk for fluid needs may be received directly from producers at bottling plants. In such cases unnecessary transportation may be eliminated and it may be advantageous to transfer the receipts at the receiving station to manufacturing outlets without moving such milk to the bottling plant. Because this milk is needed by the market during the short production season, provision should be made for such plants to retain their fluid milk plant status during the flush production season without being required to make shipments to regulated bottling plants each day of the month.

Some handlers receive supplemental supplies of whole milk from incidental sources, in addition to condensed or skim milk for reconstitution or fortification purposes. It is not feasible nor necessary to extend regulation to these supplemental or incidental sources of supply. In order that the regulation will not be extended to such milk, it is necessary to provide a means of distinguishing between plants incidentally supplying such milk and those primarily engaged in supplying milk to the marketing area.

These goals may be accomplished by specifically excluding those plants which furnish fluid whole milk or fluid skim milk on less than 20 days during each of the months of September through January or less than 5 days during other months to bottling plants in the market. These requirements will make it possible for plants regularly supplying the market to transfer milk directly to manufacturing plants on as many as 25 days each month during the season of highest production without losing their pool plant status. Other plants which furnish only emergency or occasional supplemental supplies of fluid milk to regulated plants would not become subject to regulation. Other proposals considered at the hearing for defining a fluid milk plant were based on the proportion of the Grade A milk receipts at such plants supplied to the market during the months of September through January. The qualifications set forth above are more appropriate for meeting the previously mentioned problem of distinguishing between regular and emergency or incidental suppliers of milk under the recommended individual-handler pooling arrangement for this area. Fluid milk plant status will be determined on the basis of performance during the current delivery period rather than during the immediately preceding period of September through January. Milk received from dairy farms delivering to plants qualifying as fluid milk plants in any given delivery period, therefore, will be subject to the minimum pricing provisions of the order in such month. The definition decided upon will tend to preclude the possibility of certain handlers gaining a short-run price advantage in procuring milk for Class I uses. Under the previously proposed definition this might have been achieved during the flush production season by dropping regular producers and procuring seasonal reserve milk from plants not previously qualified as fluid milk plants. The dropping of producers and procurement of other source milk would nullify the ends sought through the pricing and pooling provisions of the order. Such a loss of regular producers would tend to disrupt the orderly marketing of milk in this area. Plants which furnish incidental supplies of milk less frequently than set forth above or which supply only Class II milk and milk products as defined in the order, will not be subject to regulation. Any milk supplied by them to regulated handlers will be considered as other source milk.

*Handler* "Handler" to whom the regulatory provisions are applicable, should be defined as the operator of a fluid milk plant. The handler is the person who receives milk from producers and who is responsible for reporting receipts and utilization of milk and for paying producers minimum prices. In case a person operates more than one fluid milk plant, as defined above, he is a handler with respect to the combined operations of such plants. In case a handler operates non-fluid milk plants, this definition is not intended to include such person in his capacity as an operator of such plants. The handler definition should include a producer-handler to require such person to report to the market administrator as is needed to determine his status as a producer-handler.

*Producer* "Producer" should be defined as any person, other than a producer-handler, who produces milk under a dairy farm inspection permit issued by the responsible health authority and whose milk is permitted to be used as Grade A milk for consumption in the marketing area if such milk is received at a fluid milk plant. Provision should be made so that the milk of producers regularly received at a fluid milk plant may be diverted for the account of a handler to a non-fluid milk plant during the flush production season without such producers losing their status as producers under the order. Diverted milk shall be deemed to have been received at the plant from which it was diverted. Producers proposed that a cooperative association should be considered as a handler with respect to milk diverted for the account of such association. Under an individual handler pool, such as is herein recommended, there is no need for such a provision. A cooperative association can pay their members for diverted milk without conflict with the order program. The base rating plan, hereinafter recommended, and the provisions for classification of producer milk should apply also to the receipts of milk from a handler's own herd.

*Other source milk.* "Other source milk" should be defined as all skim milk and butterfat received by a handler in any form from sources other than that skim milk and butterfat contained in producer milk or received from other handlers, except a producer-handler. A definition of other source milk should be included in the order to differentiate between a handler's receipts of producer milk and milk received from sources other than producers and other handlers in the application of the order provisions. This will include all milk and milk products received from sources not subject to regulation under this order.

*Producer-handler* "Producer-handler" should be defined as persons who are engaged in producing milk and distributing only milk of their own production, should be subject to the order only to the extent that they must submit reports to the market administrator, as required, and maintain and make available to the market administrator accounts, records, and facilities so that the market administrator may verify that such persons are producer-handlers. Classification provisions of the proposed order should provide that any milk, skim milk, or cream transferred by a handler to a producer-handler will be Class I milk. Since producer-handlers dispose of most of their milk directly to consumers they will not be required to pool their milk with other producers, and any supplemental supplies of milk which they obtain from other handlers may be presumed to be for use in these high value outlets and should be classified in the supplying handlers plant as Class I milk. A producer-handler may receive milk from other handlers and still maintain his status as a producer-handler. Pursuant to the proposed order, any milk which a handler receives from a producer-handler would be other source milk and would, therefore, be allocated to the lowest class utilization at the fluid milk plant(s) of a handler after the allocation of shrinkage on producer milk.

5. *Classification of milk.* Milk received by regulated handlers should be classified on the basis of the form in, or the purpose for which it is used, as either Class I milk or Class II milk.

Skim milk and butterfat are not used in the same proportions, in most products, as contained in milk or milk products received by handlers, and therefore should be classified separately according to their separate uses. The skim milk and butterfat content of certain milk products, received and disposed of by a handler, can only be determined by complicated procedures. Condensed products, on the other hand, present a different problem in that water has been removed. It is necessary, therefore, to provide an acceptable means of ascertaining the amount of skim milk and butterfat in, or used to produce a product. This may be accomplished through the use of adequate plant records made available to the market administrator or by means of standard conversion factors of skim milk and butterfat used to produce such products.

Class I milk should comprise all skim milk and butterfat (1) disposed of in the form of milk, skim milk, buttermilk, flavored milk, flavored milk drinks, eggnog, yogurt, cream and any mixture of cream and milk or skim milk (excluding frozen storage cream, ice cream and ice cream mixes) (2) used to produce concentrated milk, (3) in inventory variations, (4) in shrinkage of skim milk or butterfat in excess of the amount of shrinkage permitted to be classified as Class II milk, and (5) not accounted for as Class II milk.

All of the products included in Class I milk are required by the Mississippi State Board of Health to be obtained from milk

or milk products from approved "Grade A" sources. The extra cost of getting approved milk produced and delivered to the market makes it necessary to provide a price for milk used in Grade A products (Class I) which will yield a blend price to producers that will encourage enough milk to meet market needs. Products not required to be made from approved milk must be sold in competition with products made from unapproved milk and should be placed in the lower priced Class II milk classification.

Concentrated milk (milk from which part of the water content has been removed and which is sold on retail or wholesale routes for fluid consumption) has not yet been distributed in the marketing area, but the proper classification of this product at this time will prevent problems concerning its classification if distribution is made at some future date. Products such as evaporated or condensed milk packaged in bulk or in hermatically sealed cans should not be considered as concentrated milk.

Handlers have inventories of milk and milk products at the beginning and end of each month which enter into the accounting for current receipts and utilization. Accounting procedure will be facilitated by classifying only the difference between beginning and ending inventory. Such inventory differences of bulk milk, skim milk and cream and bottled or packaged products included in Class I milk should be classified in Class I milk. This method of handling inventory will automatically reclassify milk removed from inventory for use as Class II milk on a current basis. Manufactured products classified in Class II milk will not be carried in the Class I inventory account because the skim milk and butterfat used to produce such products is accounted for in Class II milk at the time they are manufactured. Handlers will need to maintain records, however, on such stocks to permit audit of their utilization records by the market administrator. Any Class II products which may be used in the production of products included in Class I milk should be reclassified as Class I milk.

Handlers should be responsible for a full accounting of all their receipts of skim milk or butterfat in any form. A handler who first receives milk from producers should be responsible to the market administrator for the purpose of classification and the payment for such milk. All skim milk and butterfat which is received, and for which the handler cannot establish utilization, should be classified as Class I milk except for allowable shrinkage in Class II milk. This provision would not apply, of course, if a handler maintains complete records of utilization, but the provision is necessary to remove any advantage to handlers who fail to keep complete and accurate records and to assure that producers receive full value for their milk on the basis of its use. It is necessary, therefore, to place the burden of proof on the handler to establish the utilization of all milk as other than Class I.

All skim milk and butterfat used to produce products other than those classified in Class I milk should be Class II milk. These Class II products include (for illustration), ice cream and ice cream mix and other frozen desserts and mixes; butter, cheese, including cottage cheese; evaporated and condensed milk (plain and sweetened), non-fat dry milk solids, dry whole milk; condensed or dry buttermilk; and any other products not specified as Class I milk.

Cream which is placed in storage and frozen should be classified as Class II milk. Such cream is primarily for use in ice cream and ice cream mixes. Any frozen cream or other Class II products which may be used later in a Class I product must be reclassified as Class I milk at the time of such use. Any skim milk which is dumped or disposed of for livestock feeding should be classified as Class II milk if the market administrator can verify such disposition.

Shrinkage should be determined by subtracting from the total pounds of skim milk and butterfat received by the handler, his total utilization of skim milk and butterfat, respectively. If his total receipts include both producer and other source milk, the total shrinkage should be prorated between producer and other source milk on the basis of the pounds received from each source. None of the shrinkage should be assigned to milk received from other handlers because shrinkage on such milk will be allowed to the transferring handler. A plant which is operated in a reasonably efficient manner and for which complete and accurate records of receipts and utilization are maintained should have total shrinkage of less than 2 percent of total receipts. It is concluded that shrinkage assigned to producer milk which is not more than 2 percent of total receipts of producer milk should be classified as Class II milk and any shrinkage in excess of this quantity should be classified as Class I milk.

*Transfers.* Milk, skim milk or cream transferred by a handler to the fluid milk plant of another handler, except that of a producer-handler, should be classified as Class I milk unless both handlers indicate in writing to the market administrator that they desire such milk to be classified as Class II milk. However, sufficient Class II utilization must be available at the transferee plant for such assignment after prior allocation of shrinkage and other source milk as described below. On the other hand, if the transferring handler received other source milk, the transfer of milk as Class I milk should be limited to the extent that other source milk will not be allocated to Class I milk in the transferring handlers plant while producer milk is allocated to Class II milk in the transferee-handler's plant. This is necessary to prevent the displacement in Class I of producer milk by other source milk.

In order for milk, skim milk and cream disposed of to a non-fluid milk plant, including milk which is diverted, to be classified as Class II milk, the non-fluid milk plant must use an equivalent amount of skim milk and butterfat, respectively, in Class II milk as defined in the order. In addition, the operator of such plant, if requested, must make his books and records available to the market administrator for the purpose of verifying the receipt and utilization of milk in such non-fluid milk plant. Handlers proposed that verification of such transfers be made on the basis of a certified statement from the operator of the receiving plant. Experience has shown that provision for verification by the market administrator is reasonable and necessary. As described above, all transfers of milk to a producer-handler should be Class I milk.

In view of the fact that the order class prices apply only to producer milk, it is necessary to determine the quantities of milk that are to be allocated to producer milk in each class, if other source milk is also received. The milk of producers, who are primarily engaged in supplying the market, should be assigned to Class I utilization on a priority basis. A system of allocation should be provided for this purpose as set forth in § 911.46 of the recommended agreement.

Since uniform prices paid producers by each handler are to be calculated monthly, the procedures described above should be carried out with respect to all milk received during each month.

6. *Class prices.* Class I prices should be established at a level, which in conjunction with Class II prices, hereinafter concluded to be appropriate, will result in returns to producers high enough to maintain an adequate but not excessive supply of milk to meet the requirements of the marketing area.

The maintenance of stable conditions in the market requires that prices be modified whenever the supply of milk in relationship to sales is out of adjustment. If prices remain too low, insufficient milk will be produced to provide for Class I needs, and if a shortage of this kind should continue, it would be necessary to supplement supplies from regular producers by importations of milk from distant areas. On the other hand, if prices are too high, production will be stimulated and consumption curtailed, with the result that more milk will be produced than is needed to satisfy the demand for Class I and unnecessary and uneconomic surpluses of milk will develop. Moreover, an appropriate balance between supplies of approved milk from regular producers and the sales of such milk in Class I will be attained only if Class I prices are in proper relationship to prices of milk from supplemental sources of supply.

Because of changing supply and demand conditions for milk in the market it is necessary, in order to maintain an appropriate balance between supply and sales, to provide a method of flexible Class I pricing. Pricing formulas which cause prices to change automatically with changes in market conditions are in general use for the pricing of milk to farmers in fluid markets. Two general types of Class I formulae are employed: One, in which Class I prices are established at a differential over the prevailing price of milk for manufacturing uses; and the other, in which Class I price changes are made in accordance with relative changes in basic supply and demand indicators (indexes). The latter is referred to as the "economic type formula"

An economic type formula was proposed by proponents of the order while some of the handlers at the hearing testified in favor of a formula based on manufacturing milk prices. As previously indicated in this decision, there is a substantial overlapping of the supply area of the Central Mississippi marketing area with that of the New Orleans market. It is necessary, therefore, that prices in this area not only reflect local conditions but also bear a reasonably close relationship to prices in the New Orleans market. The record indicates that handlers in certain sections of the proposed marketing area relate their paying prices to those paid in the New Orleans market which employs an economic type of formula. To assure the proper relationship of prices, a similar formula should be adopted for this area. The factors included in the formula, however, should reflect any differences which prevail between local supply and demand conditions in the two areas.

Under the New Orleans formula, changes in the Class I price are based on relative changes in a composite index composed of farm labor and dairy feed costs in the New Orleans milkshed, the index of wholesale commodity prices for the United States and the index of the New Orleans Department Store Sales (consumer demand) Similar factors which will reflect changes in production costs, consumer demand and the general price level are appropriate for pricing Class I milk in this area. The proposed formula employs a composite index consisting of Mississippi Farm Labor rates and dairy feed prices, the index of wholesale commodity prices for the United States and an Index of Business Activity for Central Mississippi.

Direct cash costs of production in relation to prices received by dairy farmers for milk have an important influence on the total amount of milk available to the marketing area. Expenditures for feed and labor represent a very large proportion of the variable costs and approximately 65 percent of the total cost of producing milk in this area. Feed, the most important single item of cost, makes up approximately 45 percent of total costs. Labor, the second most important item, represents approximately 20 percent of the total. Feed costs are included in the formula, provided herein, in the form of an index of reported prices paid by farmers for all mixed dairy feeds (under 29 percent protein) in the State of Mississippi. These prices are published monthly in Agricultural Prices by the Bureau of Agricultural Economics, United States Department of Agriculture. The same series of prices for the State of Louisiana is applied under the New Orleans formula. As discussed more fully later, the "formula index" will be applied by using the monthly average of such index for the year 1952 as a base. Since the indexes or prices for the items used in the formula are not published for a given month until after the end of such month, it is necessary to use the latest figure available at the time the Class I price is announced. The factor .0458, the feed component of the index, therefore, is derived from an average price of feed of $4.58. This is the average of prices reported by the Department of Agriculture for dairy feed for the months of November 1951 through October 1952.

An index of dairy farm wage rates, without board or room, as compiled by the United States Department of Agriculture for Mississippi, is included in the formula to give due weight to changes in labor costs. The corresponding item in the New Orleans formula is composed of the wage rates for Mississippi and Louisiana. The factor .0372 in the pricing formula is derived from the reported daily average wage rate of $3.72 for 1952. Labor costs represent approximately 30 percent of the combined cost of feed and labor in producing milk in this area. Accordingly, the index of all mixed dairy feed and farm wage rates should be combined on the basis of a 70–30 weighting, respectively, to form a composite feed and labor index.

The Index of Business Activity, which is compiled by the School of Business and Industry, Mississippi State College, is included in the formula to reflect changes in the consumer demand in the cities and towns included in the marketing area. The Index of Business Activity for the State of Mississippi and for 16 divisions or trading areas of the State is published regularly by State College in the Mississippi Business Review. These indexes are based on data collected monthly on bank debits, money orders issued, postal receipts, telephones in service, employment placements, initial claims and job applicants in each of the trading areas. In some areas the index also includes the number of gas and electric connections. The Business Activity Indexes for the trading areas of Vicksburg, Jackson, Laurel and Hattiesburg were combined into a single index, weighting each area in accordance with population (1950 census) contained therein. These trading areas comprise an area considerably larger than the proposed marketing area, and with the exception of Marion County, includes all of the counties in the marketing area. It was testified at the hearing by a staff member of the School of Business, that this index will be compiled and published along with other indexes in the Mississippi Business Review. It was further stated, on the basis of comparison with consumer income studies, that the combined index for the above-mentioned districts is a reliable indicator of changes in consumer buying power in this area.

Because of frequent erratic movements exhibited by this index from month to month which are not related to changes in sales of Class I milk, it is concluded that a moving average should be used of the index for the latest three months for which the index is available at the time the Class I price is to be announced by the market administrator. The average of this index (1947–1949 base) for the months used in determining the 1952 "formula index" was 129.8. The three-month moving average of the Business Activity Index, therefore, should be divided by 129.8 before including it in the "formula index"

The price of a commodity is a measure of its economic value relative to the values of other commodities. Hence, in times of general price movements, the price of a given commodity may change, but its value in relation to other commodities may remain more or less constant. General price movements of this nature are fairly common. Consequently, in deriving a formula to determine changes in the price of milk in this area, it is necessary to devise a means for maintaining a milk price in appropriate relationship to the prices of all other commodities. The Index of Wholesale Commodity Prices in the United States, compiled and published monthly by the United States Department of Labor, is a reliable measure of changes in the general price level. The use of this index as a component in the pricing mechanism for milk will maintain an appropriate relationship between prices of milk in this market and of prices in general at times when movements are taking place in the general price level. The index of the general price level, the cost factor and the demand factor should be given equal weight in computing the "formula index"

It was proposed that the period 1947–1949 be used as a base period for determining relative changes in the "formula index" and that $6.00 be used as the basic price to which such changes would be applied. It is not possible on the basis of the record evidence to judge the propriety of this price in relation to market conditions which prevailed at that time. It is concluded that the base period should be as recent as possible. The three component indexes should be combined in the "formula index" with 1952 as a base (average monthly formula index equal to 100)

Class I prices should be announced by the market administrator by the first day of the delivery period. Since the individual prices and indexes for given months are not all available at the same time, the market administrator should use the latest figures that are available on the 28th day of the month prior to the announcement of the Class I price. The factor contained in the formula for adjusting each price or index, therefore, was derived by averaging the respective monthly figures for the 12 months which would be used in computing the "formula index" for each month of 1952.

Most of the handlers in the proposed marketing area paid producers $6.20 per hundredweight for base milk during each month of 1952. The testimony indicates, however, that a handler in the Hattiesburg area established Class I prices at 10 cents less than the New Orleans Class I price at the 61–70 mile zone. As previously indicated, a substantial portion of the supply for this area is purchased in competition with New Orleans plants.

The monthly average Class I price under the New Orleans order at the 60–70 mile zone during 1952 was $6.59. As the zoning provisions of the order are extended, the resulting price at a plant located in Hattiesburg, Mississippi, would have been approximately $6.50 and at a plant located in Jackson, Mississippi, $6.37. The Class I price announcements of the New Orleans Market Administrator for the months of March, April, and May, 1953, of which official notice is hereby taken, shows that the Class I

formula price has been reduced 7, 13, and 19 cents, respectively, by a supply-demand arrangement in that order. The resulting Class I price at the 61–70 mile zone was $6.54 in March, $6.48 in April, and $6.37 in May, 1953. The continuation of the indicated trend in the relationship of milk receipts to Class I sales, as indicated by these adjustments, will result in further reductions in the Class I prices in the immediate future. These facts should also be considered in establishing the general level of prices in the proposed Central Mississippi Marketing Area.

A price of $6.30 per hundredweight should be used as the "basic" price to which relative changes in the "formula index" should be applied in calculating the Class I price for each month. This level of $6.30 per hundredweight is supported by record evidence with respect to prices and marketing conditions prevailing in this area during 1952 and to prices of Class I milk in nearby competitive markets.

Although the economic type formula should be used as the primary determinant of Class I prices in this area, it is nevertheless reasonable to place limits on the fluctuations in prices which the formula may provide. As previously discussed in this decision there are a number of milk manufacturing plants located in or near this milkshed. It is necessary, therefore, not only to provide prices for approved milk that reflects economic conditions in the fluid market, but also to keep such prices in reasonable alignment with manufacturing milk prices. If fluid milk prices get too far out of line with manufacturing milk prices, producers of such milk will be encouraged unduly to change to the production of approved milk and the market may become oversupplied. On the other hand, too low a price for approved milk in relation to manufacuring prices will discourage dairy farmers from expending the necessary capital and labor essential to producing approved milk and the market will not be adequately supplied. It is not advisable for the formula to provide prices which would exceed the cost of obtaining suitable milk, on a regular basis, from more distant areas. Neither is it advisable to allow local prices to fall to a disproportionately low relationship with milk prices in other areas. Limits should be placed, therefore, upon the range within which the "formula index" can determine the Class I prices relative to manufacturing milk prices. Provision is therefore made to establish such limits as will preclude the formula index from causing the Class I price to be higher than the average price per hundredweight paid or reported to be paid for milk at the so-called 18 Midwestern condenseries during the preceding month plus $3.00 nor lower than such paying price plus $2.00.

For the above stated reasons, it is concluded that the pricing plan proposed herein, will provide Class I prices which are reasonable and necessary to assure an adequate supply of milk for the proposed marketing area.

A proposal was made to prevent the Class I price in each of the months of September through December from being less than that for the preceding month and the price for each of the months of April, May and June such price from being more than that for the preceding month. Such a provision is unnecessary in view of the fact that the use of the economic type formula together with the manufacturing milk price formula should achieve the necessary protection against unwarranted counter-seasonal price movements. Producers also proposed that a supply-demand adjustment arrangement be included in the order. Although this type of automatic price adjuster has merit, more current data on production and sales for the entire proposed marketing area is needed. Further consideration of a supply-demand provision, therefore, should be delayed until such time as more complete statistics becomes available.

*Class II milk.* The Class II price should be at such a level that handlers will accept and market such quantities in excess of Class I needs as may arise from time to time. The price, however, should not be so low that handlers are encouraged to procure milk supplies solely for the purpose of converting them into Class II products.

All products included in Class II milk may be made from unapproved milk. Approved milk which may be used in such products by regulated handlers should be priced at the competitive price paid by local manufacturing plants for unapproved milk. The pricing of Class II milk on the basis of the average of the prices paid for unapproved milk by five manufacturing plants located in Central Mississippi, as proposed, will reflect competitive prices for manufacturing milk in this area.

Ice cream is one of the most important outlets for reserve supplies of milk in the marketing area. Several handlers are engaged in the manufacture of ice cream. The price of Class II milk, at the competitive manufacturing price level, should provide outlets for a substantial portion of any reserve supplies.

There are a number of manufacturing plants located in or near the Grade A production area which are engaged in manufacturing evaporated milk, cheese, condensed milk, dried milk solids and butter. Some of the reserve milk received by handlers may have to be disposed of to these plants from time to time. The record indicates that during the flush production season handlers sometimes divert milk directly from the farm to such plants.

A proposal was made at the hearing to price milk which is received at a fluid milk plant and then transferred to a manufacturing plant, at 50 cents per hundredweight less than the Class II price. The record fails to support the need for a lower price for such milk. The Class II price is an average of prices paid by plants engaged in the production of different manufactured products. Prices paid by manufacturing plants may differ because of changes in the relative prices of the products which they manufacture. Handlers can dispose of reserve milk to the plants which are paying the highest price at the time of such disposal. Because of small volume and inefficient means of handling, it is quite possible that some handlers may at times incur losses in handling their necessary reserve supply of milk. The handling of surplus milk is incidental to the handling fluid milk. Handlers who need and desire the entire output of producers during periods of short supply must assume the responsibility to pay producers at least the competitive manufacturing prices for Class II milk throughout the year.

It was previously concluded that butterfat and skim milk should be accounted for separately for classification purposes. It will be necessary, therefore, to adjust Class I and Class II prices of 4 percent milk in accordance with the average test of milk in each class by a butterfat differential which will reflect differences in value related to the butterfat content. The values resulting from multiplying the average price of 92-score butter at Chicago by .125 for Class I milk and by .115 for Class II milk will provide the appropriate basis for adjusting such prices in this market. The use of butterfat differentials in this manner follows standard practices in fluid markets for adjusting for butterfat variations. In order that the Class I butterfat differential may be announced early in each delivery period, it is provided that the Class I differential be based on the average price of butter in the preceding delivery period. This will permit the announcement of the Class I differential at the same time that the Class II price and Class II butterfat differential are announced, for the preceding delivery period, on the 6th day of the month.

The butterfat differential used in making payments to producers should be fixed at the price of Grade A (92-score) butter at Chicago multiplied by .115. This is the same as the butterfat differential for Class II milk. It in no way affects the handlers' cost of milk but merely prorates returns among producers whose milk differs in butterfat test. Such a differential appears appropriate in view of the fact that the average test of producer receipts exceeds that of Class I sales. A lower butterfat differential than that recommended by the proponents will tend to encourage the production of milk with a fat test more in line with the fat requirements of the market.

A number of indexes, rates and prices are employed in the pricing provisions of the order, several of which are from sources other than the Department of Agriculture. Provision should be made, therefore, so that if for some reason such prices, rates or indexes series are not published, as indicated, or are discontinued or revised, the Secretary may determine equivalent factors to be used until such time as the order can be amended. Similar provisions are contained in other orders applying the economic type formula.

7. *Distribution of the proceeds to producers.* The individual-handler type of pool should be included in the order as a means of distributing to producers the returns from the sale of their milk. Under this type of pool the minimum prices to be paid all producers delivering their milk to a given handler will be the same. The "blend", "base" and "excess"

prices, as the case may be, will depend on the proportion of the producers' milk used in Class I and Class II milk by the handler. Although each handler will be required to pay minimum uniform prices to all the producers who deliver to him during each delivery period, the prices paid by different handlers may differ because the proportion of milk used in each class may vary among handlers.

Under the conditions existing in this area, the individual-handler pool will tend to result in optimum allocation of producer milk among handlers according to Class I needs of the handler and in maximum returns to producers from their milk.

*Base and excess plan.* A "base and excess" plan of distributing the returns for milk among producers should be employed in connection with the individual-handler pool. There is a wide seasonal variation in the production of milk and a need for more milk in the fall and winter months relative to spring and summer levels. Some handlers have difficulty in utilizing efficiently all milk delivered to them in the months of seasonally high production. By providing returns related directly to a producer's ability to deliver additional milk in the fall and winter as compared with deliveries during the season of flush production, a production pattern more closely fitted to the sales pattern of fluid milk and fluid milk products will be encouraged.

Base and excess plans in one form or another are commonly used within the milkshed area at the present time although individual producer's bases are not established in a uniform manner. The base and excess method of distributing milk returns during the months of flush production has wide support among both producers and handlers. The plan proposed by producers would establish for each producer a base equal to his average daily deliveries of milk during the six-month period September through February. (Total deliveries divided by the number of days in this period.) During these months, producers would receive the "blend" or average price paid by the handler to which they deliver their milk. For each of the months of March through August separate uniform prices for "base milk" and "excess milk" would be computed so that Class I sales would first be allotted to "base milk." Base milk would be that quantity of milk delivered by each producer up to his average daily base multiplied by the number of days he delivers milk to a handler during a delivery period. The "excess milk" price should be the minimum order Class II price, unless the total Class I sales of a handler exceeds the total base quantity received from his producers in a given month. In this case, the value of such additional Class I sales should be reflected in the price of "excess" milk.

The proposed months for establishing bases (September through February) are normally those of relatively low milk production in relation to fluid milk sales. Producers who enter the market during the fall and early winter months when additional milk is usually needed, should be permitted to establish a base on deliveries made during a portion of the base forming period. This may be accomplished by determining the base for a new producer on the basis of the number of days in the base forming period on which he deliveres milk, but in no event less than 120 days.

The base operating period, during which payments are made under the base plan, need not include all months that are not included in the base forming period to achieve the objectives of this plan. By limiting the base operating period or payment for base and excess milk to the months of March through July a desired degree of flexibility will be provided. Omission of August from the base operating period will permit all producers to adjust their production programs immediately preceding the fall shortage months without being directly influenced by the base plan during this month.

The order should provide that the market administrator will notify each producer and the handler to whom he is then selling milk of the amount of his daily base on or before April 1 of each year. The daily base established by each producer will be calculated by the market administrator from handlers' payroll records.

It is necessary to provide certain rules in connection with the establishment and transfer of bases in order to provide reasonable administrative workability of the plan. To accomplish this and to preserve the effectiveness of the base plan, transfers of bases should be limited to the entire bases of producers who retire from farming. In cases of death or dissolution of joint production arrangements such as landlord-tenant relationships, similar transfers should be permitted. Since the base plan is effective in determining producer payments in only five of the twelve months in each year and since all producers must establish a new base each year, other provisions than those contained herein for the establishment and transfer of bases are unnecessary.

The uniform prices, including uniform base and excess prices, which are required to be paid producers by each handler should be computed for milk containing 4 percent butterfat which is in accordance with past and current market practices. In distributing proceeds to producers, a differential should be applied to recognize different values of milk in accordance with its butterfat content. This differential for each one percent variation from 4 percent butterfat should be determined by multiplying the monthly average price of 92-score butter on the Chicago market by .115.

*Payment to producers.* The order should provide that each handler make final payments to each producer for milk received at the appropriate uniform price(s) on or before the 15th day after the end of each delivery period. Since it has been the practice in this area for handlers to pay producers bi-monthly, provision has been made for partial payments to producers on or before the last day of each month for milk delivered during the first 15 days of each delivery period at not less than the Class II price. Provision should also be made for the handler, if authorized in writing by the producer, to make proper deductions for goods or services furnished or for payments made on behalf of the producer. At the time the final payment is made, each handler will be required to furnish to each producer a monthly statement. This should show the pounds and butterfat tests of milk received from him together with the rate or rates of payment for such milk and a description of any deductions claimed by the handler.

8. *Other administrative provisions.* Certain other provisions should be included in the order to carry out administratively the purposes of the regulation.

In addition to the definitions discussed earlier in this decision which define the scope of the regulation, certain other terms and definitions are desirable in the interest of brevity and to assure that each usage of the term implies the same meaning. Definitions for base and excess milk and delivery period are included. Such other terms as are defined in the attached order are common to other Federal milk orders.

*Market administrator* Provision should be made for the appointment by the Secretary of a market administrator to administer the order and to set forth his powers and duties as authorized by the act for such agency.

*Records and reports.* Provisions should be included in the order for the purpose of requiring handlers to maintain adequate records of their operations and to make certain reports. Time limits must be prescribed for filing such reports and for making payments to producers. Dates must also be established for the announcement of prices by the market administrator. The following schedule will afford interested parties adequate time to perform the indicated function:

*Day of Month and Function*

First: Announcement by market administrator of the Class I price for the current delivery period.

Fifth: Submission by handlers of monthly report of receipts and utilization for preceding delivery period.

Sixth: Announcement by the market administrator of Class II price and Class II butterfat differential for preceding delivery period and Class I butterfat differential for current delivery period.

Tenth: Announcement by market administrator of uniform prices and notification to handlers of the value of their producer milk received in preceding delivery period.

Fifteenth: Final payments by handlers to producers for milk received during preceding delivery period.

Twentieth: Submission of producer payroll report by handlers for preceding delivery period.

Last: Partial payments to producers for milk received during first 15 days of current delivery period.

Handlers should maintain and make available to the market administrator all records and accounts of their operations which are necessary to verify or correct information reported to the market administrator and all payments made under the order. In addition to the regular reports required of handlers, provision is made for handlers to notify the market administrator of his intention to import other source milk. Such

information on a market-wide basis may assist handlers in locating local sources of producer milk and expedite the transfer of such milk among handlers. It is necessary that handlers retain record to prove the utilization of the milk and that proper payments were made to producers. Since the books and records of all handlers cannot be completed or audited immediately after the milk has been delivered to a plant, it therefore becomes necessary to keep such records for a reasonable period of time. The order should provide limitations on the period of time handlers shall retain such books and records and on the period of time in which obligations under the order shall terminate. Provision made in this regard is identical in principle with the general amendment made to all milk orders in operation on July 30, 1947, following the Secretary's decision of January 26, 1949, (14 F. R. 444). That decision covering the retention of records and limitation of claims is equally applicable in this situation and is adopted as a part of this decision.

*Expense of administration.* Each handler should be required to pay the market administrator, as his pro rata share of the cost of administering the order, not more than 5 cents per hundred weight or such lesser amount as the Secretary may from time to time prescribe on receipts of (a) producer milk (including such handlers own production) and (b) other source milk classified as Class I milk.

The market administrator must have sufficient funds to enable him to administer properly the terms of the order. The act provides that such cost of administration shall be financed through an assessment on handlers. One of the duties of the market administrator is to verify the receipts and disposition of milk from all sources. The record indicates that other source milk is received by most handlers to supplement local producer supplies of milk and by a few handlers in their fluid milk plants for ice cream operations which are conducted in the same plant. Some handlers obtain a portion of their milk supply from their own herds. Equality of bearing the cost of administration of the order among handlers will be achieved, therefore, by applying the administrative assessment to all producer milk (including handlers own production) and other source milk allocated to Class I milk.

In view of the anticipated volume of milk and the costs of administering orders in markets of comparable circumstances, it is concluded that an initial rate of 5 cents per hundredweight is necessary to meet the expense of administration. Provision should be made to enable the Secretary to reduce the rate of assessment below the 5 cents per hundredweight maximum without necessitating an amendment to the order. This should be done at any time experience in the market reveals that a lesser rate will produce sufficient revenue to administer the order properly.

*Marketing services.* A provision should be included in the order for furnishing marketing services to producers who do not belong to a cooperative association performing such services and for an appropriate deduction for such services from payments for milk.

There is an acute need for a marketing service program in this area. Orderly marketing will be promoted by assuring individual producers that correct payments are received for their milk based on the classification, pricing, pooling, and payment provisions of the order. To accomplish this fully, it is necessary to determine that the reported butterfat tests and weights of individual producer deliveries of milk are accurate. Verification of weights and tests will be accomplished by a cooperative association qualified to perform such marketing services for its members, as determined by the Secretary, and by the market administrator acting on behalf of nonmembers and members of associations not performing such services.

An important phase of the marketing service program is to furnish producers with current market information. As previously discussed, detailed information regarding market conditions is not now regularly available either to cooperative associations and their members or to unorganized producers. Efficiency in the production, utilization and marketing of milk will be promoted by the dissemination of current information on a market-wide basis to all producers.

To enable the market administrator to furnish such services 6 cents per hundredweight should be deducted, with respect to receipts of milk, from producers for whom he is required to render marketing services. The size of the milkshed and the volume of milk produced are comparable with several other markets now under Federal Regulation. Based on experience in such other markets which operate on a marketing service deduction of 6 cents, and based on the fact that no milk market operating under Federal Regulation has a marketing service deduction of more than 6 cents per hundredweight, it is concluded that a deduction of 6 cents per hundredweight will provide adequate revenue for the necessary marketing services in this market. If later experience indicates that marketing services can be performed at a lesser rate, provision is made for the Secretary to adjust the rate downward without the necessity of a hearing.

Handlers proposed that they pay the entire marketing service deduction to the market administrator, who in turn would pay over the money to the association. However, handlers failed to show a need for the market administrator to collect deductions from handlers for payment to cooperative associations. Provision therefore, is made in the order for handlers to pay directly to qualified cooperative association such deductions for marketing or other services as are authorized by the membership of such association.

*General findings.* (a) The proposed marketing agreement and the order, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(b) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supply of and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(c) The proposed order will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

*Rulings on proposed findings and conclusions.* Written arguments and proposed findings and conclusions submitted on behalf of interested persons were considered, along with the evidence in the record, in making the findings and reaching the conclusions herein set forth. To the extent that the proposed findings and conclusions differ from the findings and conclusions contained herein, the specific or implied requests to make such findings are denied because of the reasons stated in support of the findings and conclusions in this decision.

*Recommended marketing agreement and order.* The following order is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be identical with those contained in the order.

DEFINITIONS

§ 911.1 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended and reenacted and amended by the Agricultural Marketing Agreement of 1937, as amended (7 U. S. C. 601 et seq.)

§ 911.2 *Secretary.* "Secretary" means the Secretary of Agriculture of the United States or any other officer or employee of the United States authorized to exercise the powers or to perform the duties of the said Secretary of Agriculture.

§ 911.3 *Department of Agriculture.* "Department of Agriculture" means the United States Department of Agriculture or any other Federal Agency authorized to perform the price reporting functions specified herein.

§ 911.4 *Person.* "Person" means any individual, partnership, corporation, association, or other business unit.

§ 911.5 *Cooperative association.* "Cooperative association" means any cooperative marketing association which the Secretary determines, after application by the association.

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales of or marketing milk or its products for its members.

§ 911.6 *Central Mississippi, Marketing Area.* "Central Mississippi Marketing Area" hereinafter called "marketing area" means all the territory within the boundaries of the Counties of Hinds, Madison, Rankin, Warren, Marion, and Jones and Forrest, excluding Beat 5 thereof, all within the State of Mississippi.

§ 911.7 *Fluid milk plant.* "Fluid milk plant" means any milk plant approved by a health authority duly authorized to administer regulations governing the quality of milk disposed of in the marketing area and used during the delivery period for (a) the processing and packaging of Grade A milk all or a portion of which is disposed of as Class I milk in the marketing area to wholesale or retail outlets (including delivery by a vendor or sale from a plant store) or (b) the receipt and cooling of approved milk for delivery to a plant(s) described under paragraph (a) of this section: *Provided,* That such plant shall not be included under this definition during any month in which only Class II milk, as defined in § 911.41 (b) is furnished to a plant described under paragraph (a) of this section or during any of the months of September, October, November, December and January in which shipments of fluid whole milk or fluid skim milk from such plant are made, to a plant described in paragraph (a) of this section, on less than 20 days or during any other month in which shipments are made on less than 5 days.

§ 911.8 *Nonfluid milk plant.* "Nonfluid milk plant" means any milk manufacturing, processing, or bottling plant other than a fluid milk plant.

§ 911.9 *Handler* "Handler" means: (a) Any person in his capacity as the operator of a fluid milk plant(s) or (b) a producer-handler.

§ 911.10 *Producer* "Producer" means any person, except a producer-handler, who produces milk under a dairy farm inspection permit issued by a health authority duly authorized to administer laws and regulations governing the quality of milk for consumption as milk in the marketing area and whose milk (a) is received at a fluid milk plant as defined under § 911.7 or (b) is diverted during any of the months of March through July by the operator of such fluid milk plant, for the handlers account, from the farm to a non-fluid milk plant. Milk so diverted shall be deemed to have been received at the fluid milk plant by the handler who causes it to be diverted.

§ 911.11 *Producer milk.* "Producer milk" means all skim milk and butterfat contained in milk produced by a producer and received directly from the farm of such producer, at a fluid milk plant.

§ 911.12 *Other source milk.* "Other source milk" means all skim milk and butterfat received at a fluid milk plant other than that skim milk and butterfat contained in producer milk or received from other handlers, except a producer-handler.

§ 911.13 *Producer-handler* "Producer-handler" means any person who produces milk under a dairy farm permit issued by a health authority duly authorized to administer regulations and laws governing the quality of milk disposed of in the marketing area and who processes or packages milk from his own production and distributes all or a portion of such milk within the marketing area as Class I milk but who receives no milk from producers.

§ 911.14 *Base.* "Base" means a quantity of producer milk expressed in pounds per day computed pursuant to § 911.82.

§ 911.15 *Base milk.* "Base milk" means producer milk delivered each month which is not in excess of the producer's base multiplied by the number of days of delivery in such month.

§ 911.16 *Excess milk.* "Excess milk" means producer milk delivered in excess of base milk.

§ 911.17 *Delivery period.* "Delivery period" means a calendar month, or the portion thereof during which this order is in effect.

MARKET ADMINISTRATOR

§ 911.20 *Designation.* The agency for the administration hereof shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 911.21 *Powers.* The market administrator shall have the following powers with respect to this order.

(a) To administer its terms and provisions;

(b) To receive, investigate, and report to the Secretary complaints of violation;

(c) To make rules and regulations to effectuate its terms and provisions; and

(d) To recommend amendments to the Secretary.

§ 911.22 *Duties.* The market administrator shall perform all duties necessary to administer the terms and provisions of this order, including but not limited to, the following;

(a) Within 45 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of the funds provided by § 911.94 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses, except those incurred under § 911.93, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for herein, and, upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

(g) Audit all reports and payments by each handler by inspection of such handler's records and of any other handler or person upon whose utilization the classification of skim milk or butterfat for such handler depends;

(h) Publicly announce, at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, within 5 days after the date upon which he is required to perform such acts, has not made reports pursuant to § 911.30 and § 911.31 or payments pursuant to § 911.90;

(i) Publicly announce, by posting in a conspicuous place in his office and by such other means as he deems appropriate, and notify each handler in writing:

(1) On or before the 1st day of each delivery period, the minimum price for Class I milk computed pursuant to § 911.51,

(2) On or before the 6th day of each delivery period, the Class I butterfat differential computed pursuant to § 911.54 (a) and the minimum price for Class II milk computed pursuant to § 911.53 and the Class II butterfat differential computed pursuant to § 911.54 (b),

(3) On or before the 10th day after the end of each of the months of August through February, the uniform price for each handler computed pursuant to § 911.71 and the butterfat differential computed pursuant to § 911.91, and

(4) On or before the 10th day after the end of each of the months of March through July, the uniform prices for base milk and for excess milk for each handler computed pursuant to § 911.72 and the butterfat differential computed pursuant to § 911.91.

(j) On or before the 10th day after the end of each delivery period, mail to each handler, at his last known address a statement showing for such handler:

(1) The amount and value of producer milk in each class and the totals thereof;

(2) For the months of March through July the amounts and value of his base and excess milk respectively; and

(k) Prepare and disseminate to the public such statistics and such information as he deems advisable and as do not reveal confidential information.

REPORTS, RECORDS, AND FACILITIES

§ 911.30 *Reports of receipts and utilization.* On or before the 5th day after the end of each month each handler, except a producer-handler, shall report to the market administrator in the detail and on forms prescribed by the market administrator as follows:

(a) The quantities of skim milk and butterfat contained in milk received from producers, and for the months of March through July the aggregate quantities of base and excess milk;

(b) The quantities of skim milk and butterfat contained in receipts from other handlers;

(c) The quantities of skim milk and butterfat contained in receipts of other source milk (except Class II products disposed of in the form in which received without further processing or packaging by the handler)

(d) The utilization of all skim milk and butterfat required to be reported pursuant to this section; and

(e) Such other information with respect to receipts and utilization as the market administrator may prescribe.

§ 911.31 *Other reports.* Each handler shall report to the market administrator, in the detail and on forms prescribed by the market administrator, and each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe as follows:

(a) On or before the 20th day after the end of the delivery period his producer payroll for such delivery period which shall show for each producer: (1) his name and address, (2) total pounds of milk received from such producer, including for the delivery periods of March through July the total pounds of base and excess milk, (3) the number of days on which milk was received from such producer if less than a full calendar month, (4) the average butterfat content of such milk, and (5) the net amount of such handler's payment together with the price paid and the amount of any deduction authorized in writing by such producer.

(b) On or before the first day other source milk is received, such handler's intention to receive such milk and on or before the last day such milk is received, his intention to discontinue receipt of such milk.

§ 911.32 *Records and facilities.* Each handler shall maintain and make available to the market administrator or his representative during the usual hours of business such accounts and records of his operations and such facilities as are necessary for the market administrator to verify or establish the correct data with respect to:

(a) The receipts and utilization of all skim milk and butterfat;

(b) The weights and tests for butterfat and other content of all milk, skim milk, cream, and milk products handled;

(c) The pounds of skim milk and butterfat contained in or represented by all milk, skim milk, cream, and milk products on hand at the beginning and end of each month; and

(d) Payments to producers.

§ 911.33 *Retention of records.* All books and records required under this order to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain: *Provided,* That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act of a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 911.40 *Skim milk and butterfat to be classified.* All skim milk and butterfat received within the delivery period by a handler and which is required to be reported pursuant to § 911.30 shall be classified by the market administrator pursuant to the provisions of §§ 911.41 through 911.46.

§ 911.41 *Classes of utilization.* Subject to the conditions set forth in §§ 911.42 through 911.44, the classes of utilization shall be as follows:

(a) Class I milk shall be all skim milk (including "reconstituted skim milk") and butterfat (1) disposed of in the form of milk, skim milk, buttermilk, flavored milk, flavored milk drinks (including egg-nog), yogurt, cream (other than frozen storage cream) cultured sour cream, and any mixture of cream and milk or skim milk (other than ice cream and ice cream mixes); (2) used to produce concentrated (including frozen) milk; (3) in inventory variations; and (4) not specifically accounted for as Class II milk.

(b) Class II milk shall be all skim milk and butterfat (1) contained in frozen storage cream; (2) used to produce ice cream and ice cream mixes and any product other than those classified as Class I milk pursuant to paragraph (a) of this section; (3) disposed of for livestock feed or dumped skim milk; and (4) in shrinkage not to exceed 2 percent of receipts of skim milk and butterfat, respectively.

§ 911.42 *Shrinkage.* The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat for such handler;

(b) Prorate the resulting amounts between such handler's receipts of skim milk and butterfat in producer milk and in other source milk.

§ 911.43 *Responsibility of handlers and reclassification of milk.* (a) All skim milk and butterfat shall be Class I milk unless the handler who first receives such skim milk or butterfat can prove to the market administrator that such skim milk or butterfat should be classified as Class II milk.

(b) Any skim milk or butterfat classified in one class shall be reclassified if later disposed of (whether in original or other form) by such handler or another handler in another class.

§ 911.44 *Transfers.* Skim milk or butterfat disposed of in the form of milk, skim milk, or cream by a handler either by transfer or diversion from a fluid milk plant shall be classified:

(a) As Class I milk if transferred or diverted to a fluid milk plant of another handler, except a producer-handler, unless utilization in Class II is claimed by the transferer-handler in writing to the market administrator on or before the 5th day after the end of the month within which such transaction occurred: *Provided,* That the skim milk or butterfat so assigned to Class II shall be limited to the amount thereof remaining in Class II in the plant of the transferee-handler after the subtraction of other source milk pursuant to § 911.46 and any additional amounts of such skim milk or butterfat shall be assigned to Class I milk: *Provided further* That if either or both handlers have received other source milk, the skim milk or butterfat so transferred shall be classified at both plants so as to allocate the greatest possible Class I utilization to producer milk.

(b) As Class I milk if transferred to a producer-handler.

(c) As Class I milk if transferred or diverted to a nonfluid milk plant, unless the following conditions are met:

(1) The handler claims classification in Class II milk;

(2) The market administrator is permitted to audit the books and records showing the utilization of all skim milk and butterfat received at such nonfluid milk plant for the purpose of verification; and

(3) An amount of skim milk and butterfat not less than that so transferred or diverted was used in Class II milk: *Provided,* That the skim milk and butterfat so assigned to Class II milk shall be limited to the amount thereof in Class II milk in such nonfluid milk plant, and any additional amounts of skim milk and butterfat so transferred or diverted shall be assigned to Class I milk.

§ 911.45 *Computation of the skim milk and butterfat in each class.* For each delivery period, the market administrator shall correct for mathematical and for other obvious errors the report of receipts and utilization submitted by each handler and shall compute the pounds of skim milk and butterfat in Class I milk and Class II milk for such handler.

§ 911.46 *Allocation of skim milk and butterfat classified.* After making the computations pursuant to § 911.45 the market administrator shall determine the classification of milk received from producers as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk shrinkage in producer milk determined pursuant to § 911.41 (b) (4)

(2) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk: *Provided,* That if the receipts of skim milk in other source milk are greater than the remaining pounds of skim milk in Class II, an amount equal to the difference shall be subtracted

from the pounds of skim milk in Class I milk;

(3) Subtract from the remaining pounds of skim milk in each class the skim milk received from other handlers according to its classification as determined pursuant to § 911.44 (a)

(4) Add to the remaining pounds of skim milk in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph; and

(5) If the remaining pounds of skim milk in both classes exceed the pounds of skim milk received from producers, subtract such excess from the remaining pounds of skim milk in series beginning with Class II milk. Any amount so subtracted shall be called "overage"

(b) Butterfat shall be allocated in accordance with the same procedure outlined for skim milk in paragraph (a) of this section.

(c) Determine the weighted average butterfat content of the Class I and Class II milk computed pursuant to paragraphs (a) and (b) of this section.

MINIMUM PRICES

§ 911.50 *Minimum prices.* Subject to the appropriate butterfat differential computed pursuant to § 911.54, each handler shall pay in the manner set forth in § 911.90 for producer milk received at his fluid milk plant(s) during each delivery period not less than the Class I and Class II prices per hundredweight set forth in § 911.51 and § 911.53, respectively.

§ 911.51 *Class I Milk.* The Class I price shall be an amount calculated by multiplying $6.30 by the formula index computed pursuant to § 911.52 and dividing by 100: *Provided,* That such price shall not be higher than the average price per hundredweight paid or reported to be paid for milk at the plants or places in § 911.51 (a) during the preceding month plus $3.00 nor lower than such paying price plus $2.00.

(a) Divide by 3.5 and multiply by 4.0 the average of the basic or field prices per hundredweight reported to have been paid or to be paid for milk of 3.5 percent butterfat content received from farmers during the preceding month at the following plants or places for which prices have been reported to the market administrator or to the Department of Agriculture:

*Present Operator and Location*

Borden Co., Mt. Pleasant, Mich.
Carnation Co., Sparta, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., Wayland, Mich.
Pet Milk Co., Coopersville, Mich.
Borden Co., Greenville, Wis.
Borden Co., Black Creek, Wis.
Borden Co., Orfordville, Wis.
Borden Co., New London, Wis.
Carnation Co., Chilton, Wis.
Carnation Co., Berlin, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Jefferson, Wis.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Belleville, Wis.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

§ 911.52 *Formula index.* Based on data available on the 28th day of each month, or the first business day thereafter if the 28th is not a business day, the market administrator shall calculate a formula index for the following delivery period as follows:

(a) Divide the latest available monthly Wholesale Price Index for All Commodities (1947–49=100) as announced by the Bureau of Labor Statistics, U. S. Department of Labor, by 112.2.

(b) Divide by 3, the sum of the three latest monthly Indexes of Business Activity for the Jackson, Vicksburg, Laurel, and Hattiesburg Districts (1947–49=100) as announced by the Business Research Station, Mississippi State College, State College, Mississippi, and divide the resulting index by 129.8.

(c) Compute a labor-feed index as follows:

(1) Divide by 0.0372 the daily farm wage rate without board or room for the latest available month as reported by the U. S. Department of Agriculture for the State of Mississippi and multiply by 0.3;

(2) Divide by 0.0458 the average price paid per hundredweight for all mixed dairy feed, for the latest available month as reported by the U. S. Department of Agriculture for the State of Mississippi and multiply by 0.7;

(3) Add together the amounts determined pursuant to subparagraphs (1) and (2) of this paragraph.

(d) Add the results determined pursuant to paragraphs (a) (b) and (c) of this section, and divide by 3. The resulting number shall be known as the formula index and shall be rounded to the nearest one-tenth unit.

§ 911.53 *Class II milk.* The Class II price shall be the average of the basic or field prices reported to have been paid or to be paid for ungraded milk of 4.0 percent butterfat content received from farmers during the delivery period at the following plants or places for which prices have been reported to the market administrator or to the Department of Agriculture on or before the 5th day after the end of the delivery period by the companies indicated below:

*Present Operator and Location*

Kraft Cheese Co., Newton, Miss.
Borden Co., Starkville, Miss.
Carnation Co., Tupelo, Miss.
Brookhaven Creamery, Brookhaven, Miss.
Pet Milk Co., Kosciusko, Miss.

§ 911.54 *Butterfat differential to handlers.* If the average butterfat content of producer milk allocated to any class pursuant to § 911.46 is more or less than 4.0 percent, there shall be added to the respective class price computed pursuant to § 911.50 for each one-tenth of 1 percent that the average butterfat content of such milk is above 4.0 percent, or subtracted for each one-tenth of 1 percent that such average butterfat content is below 4.0 percent an amount equal to the butterfat differential computed by multiplying the simple average, as computed by the market administrator, of the daily wholesale selling prices per pound (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter at Chicago, as reported by the Department of Agriculture during the period listed below by the applicable factor so listed and dividing the result by 10:

(a) *Class I milk.* Multiply such price reported for the preceding month by 1.25 and round to the nearest one-tenth cent.

(b) *Class II milk.* Multiply such price reported for the current month by 1.15 and round to the nearest one-tenth cent.

§ 911.55 *Use of equivalent factors.* If for any reason a price, index, or wage rate specified by this order, for use in computing class prices and for other purposes is not reported or published in the manner described in this part, the market administrator shall use a price, index, or wage rate determined by the Secretary to be equivalent to or comparable with the factor which is specified.

APPLICATION OF PROVISIONS

§ 911.60 *Producer-handlers.* Sections 911.40 through 911.46, 911.50 through 911.55, 911.70 through 911.72, 911.80 through 911.83, and 911.90 through 911.95 shall not apply to a producer-handler.

DETERMINATION OF UNIFORM PRICES

§ 911.70 *Net obligation of each handler* The net obligation of each handler for milk received during each month from producers shall be a sum of money computed by the market administrator as follows: (a) Multiply the pounds of such milk in each class by the applicable class price, (b) add together the resulting amounts, (c) add the amounts computed by multiplying the pounds of overage deducted from each class by the applicable class price, and (d) add or subtract, as the case may be an amount, except those subject to the provisions of § 911.92, necessary to correct errors discovered by the market administrator in the verification of reports of such handler of his receipts and utilization of skim milk and butterfat for previous months.

§ 911.71 *Computation of the uniform price for each handler* For each of the months of August through February the market administrator shall compute for each handler the uniform price for milk received from producers as follows:

(a) To the amount computed pursuant to § 911.70 add, if the average butterfat content of milk received from producers by such handler is less than 4.0 percent, or subtract if such average butterfat content is more than 4.0 percent, an amount computed as follows: Multiply the amount by which the average butterfat content of such milk varies from 4.0 percent by the butterfat differential to producers computed pursuant to § 911.91, and multiply the result by the total hundredweight of such milk;

(b) Add the amount represented by any deductions made pursuant to paragraph (c) of this section for fractions of a cent in computing the uniform price for the preceding month;

(c) Divide the resulting amount by the total hundredweight of milk received from producers by such handler. The result, less any fraction of a cent per hundredweight shall be known as the uniform price for such handler for

milk of 4.0 percent butterfat, f. o. b. fluid milk plant.

§ 911.72 *Computation of the uniform price for base milk and for excess milk for each handler* For each of the months of March through July, the market administrator shall compute for each handler the uniform price for base milk and for excess milk received from producers as follows:

(a) To the amount computed pursuant to § 911.70 add, if the average butterfat content of milk received from producers by such handler is less than 4.0 percent, or subtract if such average butterfat content is more than 4.0 percent, an amount computed as follows: Multiply the amount by which the average butterfat content of such milk varies from 4.0 percent by the butterfat differential to producers computed pursuant to §911.91 and multiply the result by the total hundredweight of such milk;

(b) Add the amount represented by any deductions made pursuant to § 911.71 (c) or (e) and (f) of this section for fractions of a cent in computing such uniform prices for the preceding month;

(c) Subject to the condition set forth in paragraph (d) of this section, compute the value of excess milk by multiplying the quantity of such milk by the Class II price;

(d) Compute the value of base milk received by such handler from producers by subtracting the value obtained pursuant to paragraph (c) of this section from the value obtained pursuant to paragraph (b) of this section: *Provided,* That, if such resulting value is greater than an amount computed by multiplying the pounds of base milk delivered by producers by the Class I price computed pursuant to § 911.51 such value in excess thereof shall be added to the value computed pursuant to paragraph (c) of this section to the extent that the excess price shall not exceed the base price as calculated herein. Any additional value remaining shall be prorated on a volume basis between excess and base milk;

(e) Divide the result obtained in paragraph (d) of this section by the quantity of base milk received by such handler from producers. This result, less any fraction of a cent per hundredweight, shall be known as the uniform price per hundredweight for such handler for "base milk" of 4.0 percent butterfat content; and

(f) Divide the result obtained in paragraph (c) of this section by the quantity of excess milk received by such handler from producers. This result, less any fraction of a cent per hundredweight, shall be known as the uniform price per hundredweight for such handler for "excess milk" of 4.0 percent butterfat content.

BASE RATING

§ 911.80 *Base operating period.* The base operating period shall be the months of March through July.

§ 911.81 *Base forming period.* The base forming period for each year shall be the months of September through February, immediately preceding the base operating period.

§ 911.82 *Determination of daily base.* The daily base of each producer shall be calculated by the market administrator, as follows: Divide the total pounds of milk received by a handler(s) from such producer during the base forming period by the number of days from the first day of delivery by such producer during such period to the last day of February, inclusive, but not less than 120 days.

§ 911.83 *Computation of base.* The base of each producer to be applied during the base operating period shall be a quantity of milk calculated by the market administrator in the following manner: Multiply the daily base of such producer by the number of days for which such producer's milk was delivered to such handler during the delivery period.

§ 911.84 *Base rules.* The following rules shall apply in connection with the establishment of bases:

(a) A base shall apply to deliveries of milk by the producer for whose account that milk was delivered during the base forming period;

(b) Bases may be transferred by notifying the market administrator in writing before the last day of any month for which such base is to be transferred to the person named in such notice only as follows:

(1) In the event of the death, retirement, or entry into military service of a producer, the entire base may be transferred to a member(s) of such producer's immediate family who carries on the dairy operations..

(2) If a base is held jointly and such joint holding is terminated the entire base may be transferred to one of the joint holders.

(3) The entire daily base of a producer may be moved from one handler to another handler.

§ 911.85 *Announcement of established bases.* On or before April 1, of each year, the market administrator shall notify each producer and the handler receiving milk from such producers the daily base established by such producer.

PAYMENTS

§ 911.90 *Payments to producers.* Each handler shall make payment to each producer for milk received from such producer as follows:

(a) On or before the last day of each delivery period for milk received during the first 15 days of the delivery period at not less than the price per hundredweight for Class II milk for the preceding delivery period.

(b) On or before the 15th day after the end of each of the delivery periods of August through February for milk received during such delivery period at not less than the uniform price per hundredweight computed for such handler pursuant to § 911.71, subject to the butterfat differential computed pursuant to § 911.91, less proper deductions authorized in writing by such producer and less payment made pursuant to paragraph (a) of this section.

(c) On or before the 15th day after the end of each of the delivery periods of March through July, after deducting the amount of payment made pursuant to paragraph (a) of this section, and proper deductions authorized in writing by such producer, for milk received during the delivery period as follows:

(1) At not less than the uniform price per hundredweight for base milk computed pursuant to § 911.72 for the quantity of base milk received from such producer, subject to the butterfat differential computed pursuant to § 911.91.

(2) At not less than the uniform price per hundredweight for excess milk computed pursuant to § 911.72 for the quantity of excess milk received from such producer, subject to the butterfat differential computed pursuant to § 911.91.

(d) In making the payments to producers pursuant to paragraphs (b) and (c) of this section each handler shall furnish each producer with a supporting statement, in such form that it may be retained by the producer, which shall show:

(1) The delivery period and the identity of the handler and of the producer;

(2) The total pounds and average butterfat test of milk received from such producer;

(3) The minimum rate or rates at which payment to such producer is required;

(4) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight of such deduction claimed by the handler, together with a description of the respective deductions; and

(6) The net amount of payment to such producer.

§ 911.91 *Producer butterfat differential.* In making payments to each producer there shall be added to the uniform price(s) for each one-tenth of 1 percent that the average butterfat content of such milk delivered by such producer is above 4.0 percent not less than, or there may be deducted from the uniform price for each one-tenth of 1 percent that the average butterfat content of such milk is below 4.0 percent not more than, an amount computed as follows: Multiply the simple average computed by the market administrator of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago as reported by the United States Department of Agriculture during the month, by .115 and round to the nearest one-tenth of a cent.

§ 911.92 *Adjustments of accounts.* Whenever verification by the market administrator of the payment by a handler to any producer discloses payment to such producer of an amount which is less than is required by this section, the handler shall make up such payment to the producer not later than the time of making payment to producers next following such disclosure.

§ 911.93 *Marketing service.* (a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers for milk (other than milk of his own production) pursuant to § 911.90, shall deduct 6 cents per hundredweight or such amount not exceed-

ing 6 cents per hundredweight, as may be prescribed by the Secretary and shall pay such deductions to the market administrator on or before the 15th day after the end of each month. Such moneys shall be used by the market administrator to verify samples, tests, and weights of milk received from such producers and to provide producers with market information.

(b) In the case of producers for whom a cooperative association is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers on or before the 15th day after the end of each month and pay such deduction to the cooperative association of which such producers are members, furnishing a statement showing the amount of any such deductions and the amount and average butterfat test of milk for which such deduction was computed for each producer. In lieu of such statement a handler may authorize the market administrator to furnish such cooperative association the information with respect to such producers reported pursuant to § 911.90 (d)

§ 911.94 *Expenses of administration.* As his pro rata share of the expense of administration of this subpart, each handler, except a producer-handler, shall pay to the market administrator on or before the 15th day after the end of the month, 5 cents per hundredweight, or such amount not exceeding 5 cents per hundredweight as the Secretary may prescribe, with respect to all receipts within the month of (a) other source milk which is classified as Class I milk, and (b) milk from producers including such handler's own production.

§ 911.95 *Termination of obligations.* The provision of this section shall apply to any obligation under this order for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this order shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this order, to make available to the market administrator or his representatives all books and records required by this order to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this order to pay money shall not be terminated with respect to any transaction involving fraud or wilful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this order shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler with the applicable period of time, files, pursuant to section 8c (15) (A) of the act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION, OR TERMINATION

§ 911.100 *Effective time.* The provisions of this part or any amendment to this part shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 911.101.

§ 911.101 *Suspension or termination.* The Secretary may suspend or terminate this order or any provision hereof whenever he finds this order or any provision hereof obstructs or does not tend to effectuate the declared policy of the act. This order shall terminate in any event whenever the provisions of the act authorizing it cease to be in effect.

§ 911.102 *Continuing obligations.* If, upon the suspension or termination of any or all provisions of this order, there are any obligations thereunder the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 911.103 *Liquidation.* Upon the suspension or termination of the provisions hereof, except this section, the market administrator, or such liquidating agent as the Secretary may designate, shall if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignment or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books, and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 911.110 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his Agent or Representative in connection with any of the provisions hereof.

§ 911.111 *Separability of provisions.* If any provisions hereof, or its application to any person or circumstances is held invalid, the application of such provision and of the remaining provisions hereof, to other persons or circumstances shall not be affected thereby.

Issued at Washington, D. C., this 17th day of June 1953.

[SEAL] ROY W LENNARTSON,
*Assistant Administrator*

[F. R. Doc. 53-5542; Filed, June 22, 1953; 8:50 a. m.]

# NOTICES

## DEPARTMENT OF THE TREASURY

### Bureau of Customs

[417.381]

CERTAIN CATALYSTS

NOTICE OF PROSPECTIVE TARIFF CLASSIFICATION

JUNE 18, 1953.

It appears probable that catalysts composed of (1) nickel oxide and earthy material, or (2) iron and aluminum silicates and oxides, lead oxide, and zinc oxide are properly classifiable under the provision for articles wholly or in chief value of earthy or mineral substances, not specially provided for, in paragraph 214, Tariff Act of 1930, at a rate of duty higher than that heretofore assessed under an established and uniform practice.

Pursuant to § 16.10a (d) Customs Regulations of 1943, as amended, notice is hereby given that the existing uniform practice of classifying such merchandise as a nonenumerated manufactured article under paragraph 1558 or as a mixture of chemical compounds under paragraph 5 is under review in the Bureau of Customs.

Consideration will be given to any relevant data, views, or arguments pertaining to the correct classification of this merchandise which are submitted to the Bureau of Customs, Washington 25, D. C., in writing. To assure consideration, such communications must be received in the Bureau not later than 30 days from the date of publication of this notice. No hearings will be held.

D. B. STRUBINGER,
*Acting Commissioner of Customs.*

[F. R. Doc. 53-5539; Filed, June 22, 1953; 8:49 a. m.]

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[Order 100, Amdt. 3]

SPECIFIED CLASSES OF EMPLOYEES

REDELEGATIONS OF AUTHORITY WITH RESPECT TO TIMBER

Section 2.121 is amended to read:

SEC. 2.121 *Disposition of timber* (a) The Regional Chief, Division of Forestry, may act on matters relating to the sale of timber of an estimated stumpage volume of not to exceed 15,000,000 feet, board measure, and the free use of timber on lands under the jurisdiction of the Bureau of Land Management, including the revested Oregon and California Railroad and the reconveyed Coos Bay Wagon Road grant lands, in Oregon. The district foresters having jurisdiction over O. and C. and public domain lands in and west of Range 8 East, Williamette Meridian in the State of Oregon may act on matters relating to the sale of an estimated stumpage volume of not to exceed 1,000,000 feet, board measure of timber, and on matters relating to free use. The range managers and district foresters having jurisdiction in any portion of the remaining area in Region I may act on sales of timber where the estimated stumpage value does not exceed $1,000, and on matters relating to free use.

(b) The Regional Chief, Division of Forestry, may act on matters relating to the sale of timber on lands under the jurisdiction of the Bureau of Reclamation, in accordance with Order No. 2533 of September 7, 1949, as amended.

WILLIAM ZIEGLERMAN, Jr.,
*Associate Director*

Approved: June 16, 1953.

ORME LEWIS,
*Acting Secretary of the Interior.*

[F. R. Doc. 53-5520; Filed, June 22, 1953; 8:47 a. m.]

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[No. 6 (R-IV)]

UTAH

ORDER PROVIDING FOR OPENING OF PUBLIC LANDS

JUNE 15, 1953.

In an exchange of lands made under the provisions of section 8 of the act of June 28, 1934 (48 Stat. 1269), as amended June 26, 1936 (49 Stat. 1976, 43 U. S. C. 315g) the following described lands have been reconveyed to the United States:

SALT LAKE MERIDIAN

T. 31 S., R. 26 E.
Sec. 18: N½.

The area described aggregates 320 acres.

The land is primarily suitable for grazing, but may be valuable for minerals. At 10:00 a. m. on the 35th day after the date hereof, the land shall become subject to location under the mining laws and to lease under the Mineral Leasing Act of February 25, 1920 (41 Stat. 437) as amended. The land is not suitable for agricultural purposes, is part of a grazing district, and is not open to entry or disposition under the public land laws other than the above.

H. BYRON MOCK,
*Regional Administrator.*

[F. R. Doc. 53-5538; Filed, June 22, 1953; 8:49 a. m.]

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### National Park Service

[Order 8]

PROJECT LEADER, KATMAI PROJECT, KATMAI NATIONAL MONUMENT, ALASKA

DELEGATION OF AUTHORITY

The Project Leader of Katmai Project, Katmai National Monument, Naknek, Alaska, may enter into contracts, not in excess of $2,000, for supplies or services in conformity with applicable regulations and statutory requirements and subject to the availability of appropriations.

(Secretary's Order No. 2509, January 13, 1949, as amended; 39 Stat. 535, 16 U. S. C., 1946 ed., sec. 2)

Issued this 15th day of June 1953.

[SEAL] CONRAD L. WIRTH,
*Director.*

[F. R. Doc. 53-5518; Filed, June 22, 1953; 8:45 a. m.]

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## DEPARTMENT OF COMMERCE

### National Production Authority

[Suspension Order 63, Docket No. 70]

AMERICAN CULVERT AND FABRICATING CO.

SUSPENSION ORDER

In the matter of The American Culvert and Fabricating Company, a corporation, Herman Rogovin as president of The American Culvert and Manufacturing Company and individually, Sara Fish as secretary of The American Culvert and Fabricating Company and individually, and Theodore Rogovin as treasurer of The American Culvert and Manufacturing Company and individually.

A hearing having been held in the above-entitled matter on the 13th, 14th, 15th, and 16th days of April, and the 20th, 21st, and 28th days of May 1953, before Harrison W. Ewing, a hearing commissioner of the National Production Authority, on a statement of charges made by the then General Counsel, National Production Authority, and an answer thereto, in accordance with National Production Authority General Administrative Order 16-06 (16 F. R. 8628) and Rules of Practice 1, Revised, September 8, 1952 (17 F. R. 8156), as revised March 17, 1953 (18 F. R. 1592) and

The respondents, The American Culvert and Fabricating Company, a corporation, Herman Rogovin as president of The American Culvert and Fabricating Company and individually, Sara Fish as secretary of The American Culvert and Fabricating Company and individually, and Theodore Rogovin as treasurer of The American Culvert and Fabricating Company and individually, having been duly apprised, as required by said rules of practice, of the specific violations charged and the administrative action which may be taken thereon, and having been fully informed of the rules and procedures which govern these proceedings; and said respondents having been represented by Michael V. DiSalle, Esq., of Toledo, Ohio, and Messrs. William J. Kraus and Bernard Friedman, of Cleveland, Ohio, attorneys-at-law; and oral and documentary evidence having been offered and received on behalf of the National Production Authority and on behalf of the said respondents with respect to the said charges and the joint answer of the respondents thereto; and arguments having been presented both orally and by briefs; and the hearing commissioner being thereby fully advised in the

premises, it is hereby, upon due consideration, determined:

*Findings of fact and conclusions of law.* (1) Respondent, The American Culvert and Fabricating Company, is, and prior to and throughout the period covered by these charges was, a corporation organized and existing under the laws of the State of Ohio, having its principal place of business at Cambridge, Ohio.

Throughout the period covered by the charges herein the individual respondents were, and they still are, officers of said corporation in the following capacities:

Herman Rogovin, president, and a director;
Sara Fish, secretary, and a director;
Theodore Rogovin, treasurer, and a director.

(2) Prior to and at all times during the period of the charges herein, respondent, The American Culvert and Fabricating Company, was engaged in several categories of business and manufacturing activity subject to regulation and control under the Defense Production Act of 1950, and amendments, and National Production Authority regulations, orders, and directions issued thereunder; to wit:

(a) The American Culvert and Fabricating Company was buying and selling carbon steel products (mainly heavy structural steel shapes—I-beams, plates, angles, reinforcing rods, channels, etc.), as a steel distributor or warehouseman, and as such was regulated and controlled by National Production Authority Reg. 2 and amendments, and NPA Order M–6 and amendments thereunder, under the Priorities System; and thereafter, under the Controlled Materials Plan, was regulated and controlled by National Production Authority CMP Regulations Nos. 1 and 4 and amendments, and NPA Order M–6A and amendments thereunder.

(b) The American Culvert and Fabricating Company was engaged in the sale and fabrication of steel bridge superstructures, with or without abutments, and with or without bridge flooring (of steel plate or wood) guard rails, etc., as the terms of particular purchase orders placed by certain counties of the State of Ohio with the company might require. In certain cases the structural steel superstructures, with bridge flooring, guard rails, abutments, etc., were sold, fabricated, delivered, constructed, and erected by said company complete on the bridge sites, including two coats of paint. These activities were regulated and controlled by National Production Authority Reg. 2 and amendments, and NPA Order M–4 and amendments thereunder, under the Priorities System; and were regulated and controlled by National Production Authority CMP Regulations Nos. 1 and 6, and NPA Order M–4A thereunder, under the Controlled Materials Plan.

(c) The American Culvert and Fabricating Company was also engaged in the manufacture and sale of corrugated sheet steel culverts made from corrugated steel sheets which it procured and put in manufacture. This activity was regulated and controlled by National Production Authority Reg. 2 under the Priorities System; and it was regulated and controlled by National Production Authority CMP Regulation No. 1 under the Controlled Materials Plan.

(3) Despite the requirements of National Production Authority regulations, orders, and directions applicable to its activities, The American Culvert and Fabricating Company and its respondent officers failed to keep and maintain inventory records during the period covered by the charges herein, with the possible exception of a year-end physical inventory which the president of the company testified was taken, but which was not disclosed to the National Production Authority investigators and was not produced or offered in evidence by the respondents) warehouse records, "in manufacture" production records, MRO (maintenance, repair, and operating supplies) records, "base-period" records, or production records. The only records kept by the respondents were duplicate copies of purchase orders placed with the steel producer (Bethlehem Steel Company) shipping invoices of steel shipped by Bethlehem Steel Company and related bills of lading, and copies of sales invoices covering the numerous items of steel and steel products sold by it. Also kept separately in boxes, but made available to NPA investigators and purporting to relate to many of the sales made, and sales invoices issued, by respondent, The American Culvert and Fabricating Company, were certain certification forms purporting to bear NPA rating symbols and certifications thereon. The respondents claim that these certifications support and justify their extension by the company on purchase orders given to Bethlehem Steel Company to procure heavy structural steel shapes, bars, etc., and respondents claim that these rating symbols and certifications further support and justify the sale, fabrication, delivery, construction, and/or erection of the more than 145 bridges by the company for Ohio counties during the period from January 5, 1951, through July 21, 1952. There is no merit or foundation in law or fact for the respondents' contention.

In only one single case of a bridge superstructure was it proved before the hearing commissioner that the Ohio counties had filed application for and been granted a construction schedule and related allotment of structural steel for construction of any of these many bridges. To the contrary, it was established by testimony and documents produced by County Commissioners or County Engineers, and by testimony and documents produced by the District Engineer, Columbus, Ohio, District, Bureau of Public Roads, United States Department of Commerce, that few construction applications had been made, and no construction schedules or allotments of materials granted, except in the case of one bridge, for any of the bridges. It was and has been the reiterated contention of respondents and the County Commissioners and County Engineers who testified at the trial, that the bridge superstructures, bridge floors, guard rails, abutments, etc., were bought by the several counties, and were sold, fabricated, delivered, constructed, and/or erected on the many bridge sites, as the case may be, as MRO (maintenance, repairs, and operating supplies) within the meaning of NPA Reg. 4 and amendments, under the Priorities System; and within the meaning of CMP Regulation No. 5 and amendments, under the Controlled Materials Plan. This contention is in conflict with the manifest intent and the express terms and restrictions of the cited regulations:

NPA Reg. 4, as amended;
Sec. 1. *What this regulation does.*
Sec. 2. *Definitions,* (e), (f), (g), (h).
CMP Regulation No. 5, and amendments;
Sec. 1. *What this regulation does.*
Sec. 2. *Definitions,* (e) (f), (g), (h), (i).

As a "steel distributor" or warehouseman within the terms and restrictions imposed by NPA Order M–6, and NPA Order M–6A, and the respective amendments thereto, respondent, The American Culvert and Fabricating Company, could only sell steel products in accordance with its terms.

NPA Order M–6, as amended Dec. 15, 1950, and March 15, 1951, provides:

§ 22.2 *Definitions.* As used in this part:

(a) "Steel distributor" means a person engaged in the business of maintaining facilities and equipment for the stocking and distribution of rolled or drawn steel products for sale or resale in the form as received or after performing such operations as cutting to length, shearing to size or shape, pipe threading, or sorting and grading. A person who, in connection with any sale of such steel products from his stock, bends, punches, or performs any fabricating or processing operation designed to prepare steel for final use or assembly is not a steel distributor with respect to such sale. The term "steel distributor" excludes any person who purchases steel products for resale but does not take physical delivery of the material into his own stock at a location regularly maintained for such purposes.

NPA Order M–6A, as amended, reads substantially the same.

It follows that as a "steel distributor", respondent, The American Culvert and Fabricating Company, was not permitted to fabricate steel bridge superstructures, bridge floors, guard rails, etc., nor was it permitted, in the guise of selling structural steel as a distributor, for respondents to deliver, construct, or erect the many superstructures, bridge floors, guard rails, or abutments, etc., which were purchased by the Ohio counties.

It is impossible, due to the lack of any inventory records, "in manufacture" records, base-period records, production records, or MRO records in the respondent company, to trace any particular piece of structural steel shape from its procurement under a purchase order placed by the respondents, through its delivery and acceptance by The American Culvert and Fabricating Company, to a particular bridge superstructure, bridge floor, guard rail, abutment, or other bridge part. But it is not necessary for the National Production Authority to trace the steel used in any bridge structure to any particular purchase order or shipment and the receipt thereof. The unauthorized uses of certifications and rating symbols to procure steel were one type of violation. The

unauthorized fabrications and uses of carbon steel products in making bridges are another and separate type of violation. It is clear that no bridge (except one) of the more than 145 bridges built by the respondents for the Ohio counties, complied in any respect with National Production Authority regulations, orders, or directions.

Upon the foregoing general findings, the hearing commissioner further finds as facts, *and concludes as matter of law:*

(a) On March 12, 1951, respondent, The American Culvert and Fabricating Company, a corporation, committed acts prohibited by sections 11.4 (b) 11.6, and 11.8 (a) (e) and (f) of NPA Reg. 2, as amended January 11, 1951 (16 F. R. 352), and February 27, 1951 (16 F. R. 1953) in that said respondent issued its Purchase Order No. 2333 to Bethlehem Steel Company for August delivery of certain carbon steel plates itemized therein, with certification and rating symbol thereon, "Certified Under Regulation #4, NPA DO #97" which said certification and rating symbol said respondent corporation was without authority or right so to use.

(b) On or about July 17, 1951, respondent, The American Culvert and Fabricating Company, a corporation, committed acts prohibited by section 11.17 (a) of NPA Reg. 2, as amended January 11, 1951 (16 F. R. 352) and February 27, 1951 (16 F. R. 1953), in that said respondent accepted delivery of, and received 55.97 tons of carbon steel plates, shipped by Bethlehem Steel Company under Purchase Order No. 2333 of the respondent corporation, and thereafter failed to use this material in accordance with a purpose for which NPA assistance was given.

(c) On March 16, 1951, respondent, The American Culvert and Fabricating Company, a corporation, committed acts prohibited by sections 11.4 (b) 11.6, and 11.8 (a) (e) and (f) of NPA Reg. 2, as amended January 11, 1951 (16 F. R. 352) and February 27, 1951 (16 F. R. 1953) in that said respondent issued its Purchase Order No. 2346 to Bethlehem Steel Company for July delivery of certain carbon steel beams itemized therein, with rating symbol and certification thereon "DO #97—Certified Under Regulation No. 4, NPA" which said rating and certification said respondent corporation was without authority or right so to use.

(d) On or about July 12, 1951, July 13, 1951, August 12, 1951, and August 16, 1951, respondent, The American Culvert and Fabricating Company, a corporation, committed acts prohibited by section 11.17 (a) of NPA Reg. 2, as amended January 11, 1951 (16 F. R. 352) February 27, 1951 (16 F R. 1953) and July 17, 1951 (16 F. R. 6944) in that said respondent accepted delivery of and received an aggregate amount of 75.87 tons of carbon steel beams, shipped by Bethlehem Steel Company under Purchase Order No. 2346 of the respondent corporation, and thereafter failed to use this material in accordance with a purpose for which NPA assistance was given.

(e) On March 16, 1951, respondent, The American Culvert and Fabricating Company, a corporation, committed acts prohibited by sections 11.4 (b), 11.6, and 11.8 (a) (e) and (f) of NPA Reg. 2, as amended January 11, 1951 (16 F. R. 352) and February 27, 1951 (16 F. R. 1953) in that said respondent issued its Purchase Order No. 2347 to Bethlehem Steel Company for August delivery of certain carbon steel beams itemized therein, with rating symbol and certification thereon "DO #97—Certified Under Regulation No. 4, NPA", which said rating symbol and certification said respondent corporation was without authority or right so to use.

(f) On or about August 12, 13, 16, and 29, all of 1951, and September 15, 1951, respondent, The American Culvert and Fabricating Company, a corporation, committed acts prohibited by section 11.17 (a) of NPA Reg. 2, as amended January 11, 1951 (16 F. R. 352), and February 27, 1951 (16 F. R. 1953), and July 17, 1951 (16 F. R. 6944), and September 13, 1951 (16 F. R. 9413) in that said respondent accepted delivery of and received an aggregate amount of 130.38 tons of carbon steel beams, shipped by Bethlehem Steel Company under Purchase Order No. 2347 of the respondent corporation, and thereafter failed to use this material in accordance with a purpose for which NPA assistance was given.

(g) On or about March 21, 1951, respondent, The American Culvert and Fabricating Company, a corporation, committed acts prohibited by sections 11.4, 11.8 (a), (e), and (f) of NPA Reg. 2, as amended January 11, 1951 (16 F. R. 352) and February 27, 1951 (16 F. R. 1953) in that said respondent issued its Purchase Order No. 2359 with DO-97 rating and certification thereon to Bethlehem Steel Company for July 1951 delivery of certain corrugated steel culvert sheets itemized therein, which rating said respondent corporation was without authority or right so to use.

(h) On or about July 11, 1951, respondent, The American Culvert and Fabricating Company, a corporation, committed acts prohibited by section 11.8 of NPA Reg. 2, as amended January 11, 1951 (16 F. R. 352), and February 27, 1951 (16 F R. 1953) and by sections 17 (a) and 19 (o) of CMP Regulation No. 1, dated May 3, 1951 (16 F. R. 4127), in that said respondent, purporting to validate the delivery order described in paragraph (g) above, gave a certification of said order in a letter to Bethlehem Steel Company, which certification falsely represented that said respondent was authorized to place said delivery order and to use the rating symbol appearing thereon.

(i) On or about September 8, 13, and 21, 1951, respondent, The American Culvert and Fabricating Company, a corporation, committed acts prohibited by sections 17 (a), (b), and (d), and 19 (a) and (c) of CMP Regulation No. 1, dated May 3, 1951 (16 F. R. 4127), as amended July 12, 1951 (16 F. R. 6800), as amended August 1, 1951 (16 F. R. 7610), and as amended August 22, 1951 (16 F. R. 8548), in that said respondent accepted delivery of and received an aggregate amount of 103.57 tons of steel sheets shipped by Bethlehem Steel Company under Purchase Order No. 2359 of the respondent corporation and thereafter failed to use this material for a purpose for which NPA assistance was given.

(j) On or about March 22, 1951, respondent, The American Culvert and Fabricating Company, a corporation, committed acts prohibited by sections 11.4, 11.8 (a) (e) and (f) of NPA Reg. 2, as amended January 11, 1951 (16 F. R. 352), and February 27, 1951 (16 F. R. 1953), in that said respondent issued its Purchase Order No. 2369 with DO—97 rating and certification thereon to Bethlehem Steel Company for July 1, 1951, delivery of certain steel plates itemized therein, which rating said respondent corporation was without authority or right so to use.

(k) On or about July 6, 1951, respondent, The American Culvert and Fabricating Company, a corporation, committed acts prohibited by sections 17 (a), (b), and (d) and 19 (a) and (c) of CMP Regulation No. 1, dated May 3, 1951 (16 F. R. 4127), in that said respondent accepted delivery of and received an aggregate amount of 52.32 tons of steel plates shipped by Bethlehem Steel Company under Purchase Order No. 2369 of the respondent corporation and thereafter failed to use this material for a purpose for which NPA assistance was given.

(l) On or about March 26, 1951, respondent, The American Culvert and Fabricating Company, a corporation, committed acts prohibited by sections 11.4, 11.8 (a) (e), and (f) of NPA Reg. 2, as amended January 11, 1951 (16 F. R. 352) and February 27, 1951 (16 F. R. 1953), in that said respondent issued its Purchase Order No. 2374 with DO-97 rating and certification thereon to Bethlehem Steel Company for July 1951 delivery of certain steel beams itemized therein which rating said respondent corporation was without authority or right so to use.

(m) On or about August 1, 9, and 16, 1951, and September 15, 1951, respondent, The American Culvert and Fabricating Company, a corporation, committed acts prohibited by sections 17 (a), (b) and (d), and 19 (a) and (c) of CMP Regulation No. 1, dated May 3, 1951 (16 F. R. 4127) as amended July 12, 1951 (16 F. R. 6800), as amended August 1, 1951 (16 F. R. 7610) and as amended August 22, 1951 (16 F. R. 8548) in that said respondent accepted delivery of and received an aggregate amount of 108.33 tons of carbon steel beams shipped by Bethlehem Steel Company under Purchase Order No. 2374 of the respondent corporation and thereafter failed to use this material for a purpose for which NPA assistance was given.

(n) On or about March 26, 1951, respondent, The American Culvert and Fabricating Company, a corporation, committed acts prohibited by sections 11.4, 11.8 (a) (e), and (f) of NPA Reg. 2, as amended January 11, 1951 (16 F. R. 352), and February 27, 1951 (16 F. R. 1953), in that said respondent issued its Purchase Order No. 2375 with DO-97 rating and certification thereon to Bethlehem Steel Company for August 1951 delivery of certain steel beams itemized therein, which rating said respondent

corporation was without authority or right so to use.

(o) On or about September 15 and 20, 1951, and October 17, 1951, respondent, The American Culvert and Fabricating Company, a corporation, committed acts prohibited by sections 17 (a) (b) and (d) and 19 (a) and (c) of CMP Regulation No. 1, dated May 3, 1951 (16 F R. 4127) as amended July 12, 1951 (16 F R. 6800) as amended August 1, 1951 (16 F. R. 7610) as amended August 22, 1951 (16 F. R. 8548) and as amended October 1, 1951 (16 F. R. 10082) in that said respondent accepted delivery of and received an aggregate amount of 86.85 tons of carbon steel beams shipped by Bethlehem Steel Company under Purchase Order No. 2375 of the respondent corporation and thereafter failed to use this material for a purpose for which NPA assistance was given.

(p) On or about April 30, 1951, respondent, The American Culvert and Fabricating Company, a corporation, committed acts prohibited by sections 11.4, 11.8 (a) (e) and (f) of NPA Reg. 2, as amended January 11, 1951 (16 F. R. 352) and February 27, 1951 (16 F R. 1953) in that said respondent issued its Purchase Order No. 2409, with DO-97 rating and certification thereon, to Bethlehem Steel Company for September 1951 delivery of certain steel beams itemized therein, which rating said respondent corporation was without authority or right so to use.

(q) On or about August 12 and 29, September 6, 10, 16, 18, 22, and 25, and October 13, all of 1951, respondent, The American Culvert and Fabricating Company, a corporation, committed acts prohibited by sections 17 (a) (b) and (d) and 19 (a) and (c) of CMP Regulation No. 1, dated May 3, 1951 (16 F. R. 4127) as amended July 12, 1951 (16 F. R. 6800) as amended August 1, 1951 (16 F R. 7610) as amended August 22, 1951 (16 F R. 8548) and as amended October 1, 1951 (16 F R. 10082) in that said respondent accepted delivery of and received an aggregate amount of 215.45 tons of carbon steel beams shipped by Bethlehem Steel Company under Purchase Order No. 2409 of the respondent corporation and thereafter failed to use this material for a purpose for which NPA assistance was given.

(r) On or about May 4, 1951, respondent, The American Culvert and Fabricating Company, a corporation, committed acts prohibited by sections 11.4 and 11.8 (a) (e) and (f) of NPA Reg. 2, as amended January 11, 1951 (16 F. R. 352), and February 27, 1951 (16 F. R. 1953) in that said respondent issued its Purchase Order No. 2426 to Bethlehem Steel Company for October delivery of certain steel sheets itemized therein with certification and rating symbol thereon "DO #97—Certified Under Regulation 4, NPA," which rating symbol said respondent corporation was without authority or right so to use.

(s) On or about July 11, 1951, respondent, The American Culvert and Fabricating Company, a corporation, committed acts prohibited by section 11.8 of NPA Reg. 2, as amended January 11, 1951 (16 F. R. 352), and February 27, 1951 (16 F. R. 1953), in that said respondent, purporting to validate the delivery order described in paragraph (r) above, gave a certification of said order in a letter to Bethlehem Steel Company, which certification falsely represented that said respondent was authorized to place said delivery order and to use the rating symbol appearing thereon.

(t) On or about December 7, 1951, respondent, The American Culvert and Fabricating Company a corporation, committed acts prohibited by sections 4 and 17 (a) and (b) of NPA Reg. 2, as amended September 13, 1951 (16 F R. 9413) and sections 17 (a) and (b) and 19 (a) and (c) of CMP Regulation No. 1, as amended November 23, 1951 (16 F R. 11860) in that said respondent accepted delivery of and received an aggregate amount of 64.28 tons of carbon steel sheets shipped by Bethlehem Steel Company under Purchase Order No. 2426 of the respondent corporation and thereafter failed to use this material for a purpose for which NPA assistance was given.

(u) On or about May 28, 1951, respondent, The American Culvert and Fabricating Company, a corporation, committed acts prohibited by sections 11.4 and 11.8 (a) (e) and (f) of NPA Reg. 2, as amended January 11, 1951 (16 F R. 352) and February 27, 1951 (16 F R. 1953) in that said respondent issued its Purchase Order No. 2442 to Bethlehem Steel Company for September 1951 delivery of certain steel products itemized therein with rating symbol and certification "DO #97—Certified Under Regulation 4, NPA" thereon, which rating symbol and certification said respondent corporation was without authority or right so to use.

(v) On or about September 6, 10, 16, 18, and 22, 1951, respondent, The American Culvert and Fabricating Company, a corporation, committed acts prohibited by section 17 (a) of NPA Reg. 2, as amended July 17, 1951 (16 F R. 6944) and September 13, 1951 (16 F R. 9413), and sections 17 (a) and (b) and 19 (a) and (c) of CMP Regulation No. 1, dated May 3, 1951 (16 F R. 4127) as amended July 12, 1951 (16 F R. 6800) August 1, 1951 (16 F. R. 7610) and August 22, 1951 (16 F R. 8548) in that said respondent accepted delivery of and received an aggregate amount of 98.58 tons of carbon steel shipped by Bethlehem Steel Company under Purchase Order No. 2442 of the respondent corporation and thereafter failed to use this material for a purpose for which NPA assistance was given.

(w) On or about August 22, 1951, respondent, The American Culvert and Fabricating Company, a corporation, committed acts prohibited by sections 17 (a) and (b) and 19 (c) and (f) of CMP Regulation No. 1, dated May 3, 1951 (16 F R. 4127) as amended July 12, 1951 (16 F R. 6800) and August 22, 1951 (16 F. R. 8548) and section 8 of NPA Reg. 2, as amended July 17, 1951 (16 F R. 6944) in that said respondent issued its Purchase Order No. 2500 to Bethlehem Steel Company for January 1952 delivery of certain steel sheets itemized therein with "CMP Allotment #K-7, Rating DO K-7, 1Q52" thereon, which allotment number and rating said respondent corporation was without authority or right so to use.

(x) On or about August 23, 1951, respondent, The American Culvert and Fabricating Company, a corporation, committed acts prohibited by section 15 (c) of CMP Regulation No. 6, as amended August 3, 1951 (16 F R. 7709), and section 17 of NPA Reg. 2, as amended July 17, 1951 (16 F R. 6944), in that said respondent, purporting to certify the delivery order described in paragraph (w) above gave a certification of said order in the following language; to wit: "Certified and ordered under CMP Regulation No. 6," which certification falsely represented that said respondent was authorized to place said delivery order and to use the allotment number and rating appearing thereon.

(y) On or about March 10, 1952, respondent, The American Culvert and Fabricating Company, a corporation, committed acts prohibited by section 17 (a) and (b) of CMP Regulation No. 1, as amended November 23, 1951 (16 F R. 11860) and January 5, 1952 (17 F R. 201) and section 17 of NPA Reg. 2, as amended January 11, 1951 (16 F R. 352), and February 27, 1951 (16 F R. 1953), in that said respondent accepted delivery of and received an aggregate amount of 56.01 tons of carbon steel sheets shipped by Bethlehem Steel Company under Purchase Order No. 2500 of the respondent corporation and thereafter failed to use this material in accordance with a purpose for which NPA assistance was given.

(z) On or about August 22, 1951, respondent, The American Culvert and Fabricating Company, a corporation, committed acts prohibited by sections 17 (a) and (b) and 19 (c) and (f) of CMP Regulation No. 1, dated May 3, 1951 (16 F R. 4127) as amended July 12, 1951 (16 F R. 6800), and August 22, 1951 (16 F R. 8548) and section 8 of NPA Reg. 2, as amended July 17, 1951 (16 F R. 6944), in that said respondent issued its Purchase Order No. 2502 to Bethlehem Steel Company for March 1952 delivery of certain steel sheets itemized therein with "CMP Allotment K-7, Rating DO K-7, 1Q52" thereon, which allotment number and rating said respondent corporation was without authority or right so to use.

(aa) On or about August 23, 1951, respondent, The American Culvert and Fabricating Company, a corporation, committed acts prohibited by section 19 (c) of CMP Regulation No. 1, dated May 3, 1951 (16 F R. 4127) and section 17 of NPA Reg. 2, as amended July 17, 1951 (16 F. R. 6944) in that said respondent purporting to certify the delivery order described in paragraph (z) above, gave a certification of said order in the following language; to wit: "Certified and ordered under CMP Regulation 6" which certification falsely represented that said respondent was authorized to place said delivery order and to use the allotment number and rating appearing thereon.

(bb) On or about May 7 and 24, 1952, respondent, The American Culvert and Fabricating Company, a corporation, committed acts prohibited by section 17 (a) and (b) of CMP Regulation No. 1, as amended November 23, 1951 (16 F. R.

11860) January 5, 1952 (17 F. R. 201) and March 31, 1952 (17 F. R. 2847) and section 17 of NPA Reg. 2, as amended January 11, 1951 (16 F. R. 352) and February 27, 1951 (16 F. R. 1953), in that said respondent accepted delivery of and received an aggregate amount of 55.29 tons of carbon steel sheets shipped by Bethlehem Steel Company under Purchase Order No. 2502 of the respondent corporation and thereafter failed to use this material in accordance with a purpose for which NPA assistance was given.

(cc) On or about September 13, 1951, respondent, The American Culvert and Fabricating Company, a corporation, committed acts prohibited by sections 13 (a) and (b) and 15 (c) and (f) of CMP Regulation No. 6, as amended August 3, 1951 (16 F. R. 7709), in that said respondent issued its Purchase Order No. 2522 to Bethlehem Steel Company for fourth quarter 1952 delivery of certain steel beams itemized therein with "Certified under CMP Regulation 6, Rating DO U-4, 4Q51" thereon, which rating said respondent corporation was without authority or right so to use.

(dd) On or about December 2 and 9, 1951, respondent, The American Culvert and Fabricating Company, a corporation, committed acts prohibited by section 13 (a) and (b) of CMP Regulation No. 6, as amended August 3, 1951 (16 F. R. 7709) in that said respondent accepted delivery of and received an aggregate amount of 66.68 tons of carbon steel beams shipped by Bethlehem Steel Company under Purchase Order No. 2522 of the respondent corporation and thereafter failed to use this material in accordance with a purpose for which NPA assistance was given.

(ee) On or about September 17, 1951, respondent, The American Culvert and Fabricating Company, a corporation, committed acts prohibited by sections 13 (a) and (b) and 15 (c) of CMP Regulation No. 6, as amended August 3, 1951 (16 F. R. 7709) in that said respondent issued its Purchase Order No. 2525 to Bethlehem Steel Company for first quarter 1952 delivery of certain steel angles itemized therein with "Certified under CMP Regulation 6, DO U-6, 1Q52" thereon, which rating said respondent corporation was without authority or right so to use.

(ff) On or about January 18, 1952, respondent, The American Culvert and Fabricating Company, a corporation, committed acts prohibited by section 13 (a) and (b) of CMP Regulation No. 6, as amended August 3, 1951 (16 F. R. 7709) in that said respondent accepted delivery of and received an aggregate amount of 15.50 tons of carbon steel angles shipped by Bethlehem Steel Company under Purchase Order No. 2525 of the respondent corporation and thereafter failed to use this material in accordance with a purpose for which NPA assistance was given.

(gg) On or about November 1, 1951, respondent, The American Culvert and Fabricating Company, a corporation, committed acts prohibited by sections 13 (a) and (b) and 15 (c) and (f) of CMP Regulation No. 6, as amended August 3, 1951 (16 F. R. 7709) in that said respondent issued its Purchase Order No. 2556 to Bethlehem Steel Company for January 1952 delivery of certain steel beams itemized therein with "Certified under CMP Regulation 6, DO U-6, 1Q52" thereon, which rating said respondent corporation was without authority or right so to use.

(hh) On or about January 17 and 18, and March 29, 1952, respondent, The American Culvert and Fabricating Company, a corporation, committed acts prohibited by section 13 (a) and (b) of CMP Regulation No. 6, as amended August 3, 1951 (16 F. R. 7709) and section 17 (a) and (d) of Revised CMP Regulation No. 6, dated March 6, 1952 (17 F. R. 2002), in that said respondent accepted delivery of and received an aggregate amount of 29.70 tons of carbon steel beams shipped by Bethlehem Steel Company under Purchase Order No. 2556 of the respondent corporation and thereafter failed to use this material in accordance with a purpose for which NPA assistance was given.

(ii) On or about November 12, 1951, respondent, The American Culvert and Fabricating Company, a corporation, committed acts prohibited by sections 13 (a) and (b) and 15 (c) and (f) of CMP Regulation No. 6, as amended August 3, 1951 (16 F. R. 7709) in that said respondent issued its Purchase Order No. 2567 to Bethlehem Steel Company for delivery of certain steel reinforcing rods itemized therein with "Certified under CMP Regulation 6, DO, U-6, 1Q52" thereon, which rating said respondent corporation was without authority or right so to use.

(jj) On or about January 18, 1952, respondent, The American Culvert and Fabricating Company, a corporation, committed acts prohibited by sections 3 (a), 6 (d) 7 (a) and 11 of CMP Regulation No. 5, as amended December 20, 1951 (16 F. R. 12823), in that said respondent issued its Purchase Order No. 2606 to Bethlehem Steel Company for April 1952 delivery of certain steel channel, ship channel, and beams itemized therein with "Certified MRO under CMP Regulation 5" thereon, which allotment number and rating said respondent corporation was without authority or right so to use.

(kk) On or about April 18, May 8, and May 16, 1952, respondent, The American Culvert and Fabricating Company, a corporation, committed acts prohibited by section 17 (a) and (b) of CMP Regulation No. 1, as amended November 23, 1951 (16 F. R. 11860) January 5, 1952 (17 F. R. 201) and March 31, 1952 (17 F. R. 2847), in that said respondent accepted delivery of and received an aggregate amount of 67.43 tons of carbon steel channels, ship channels, and beams shipped by Bethlehem Steel Company under Purchase Order No. 2606 of the respondent corporation and thereafter failed to use this material in accordance with a purpose for which NPA assistance was given.

(ll) On or about January 7, 1952, respondent, The American Culvert and Fabricating Company, a corporation, committed acts prohibited by sections 13 (a) and (b) and 15 (c) and (f) of CMP Regulation No. 6, as amended August 3, 1951 (16 F. R. 7709), in that said respondent issued its Purchase Order No. 2607 to Bethlehem Steel Company for April 1952 delivery of certain steel sheets itemized therein with "Certified and ordered under CMP Regulation 6" thereon, which certification said respondent corporation was without authority or right so to use.

(mm) On or about January 11, 1952, respondent, The American Culvert and Fabricating Company, a corporation, committed acts prohibited by section 19 (c) and (f) of CMP Regulation No. 1, amended November 23, 1951 (16 F. R. 11860), and January 5, 1952 (17 F. R. 201) in that said respondent added the words "CMP Allotment K-7, Rating DO K-7, 2Q52" to the delivery order described in paragraph (ll) above, which allotment symbol and rating respondent was without authority or right so to use.

(nn) On or about May 7 and 24, 1952, respondent, The American Culvert and Fabricating Company, a corporation, committed acts prohibited by section 17 (a) and (d) of Revised CMP Regulation No. 6, dated March 6, 1952 (17 F. R. 2002), in that said respondent accepted delivery of and received an aggregate amount of 13.80 tons of carbon steel sheets shipped by Bethlehem Steel Company under Purchase Order No. 2607 of the respondent corporation and thereafter failed to use this material in accordance with a purpose for which NPA assistance was given.

(oo) On or about January 18, 1952, respondent, The American Culvert and Fabricating Company, a corporation, committed acts prohibited by sections 3 (a) 6 (d), 7 (a), and 11 of CMP Regulation No. 5, as amended December 20, 1951 (16 F. R. 12823), in that said respondent issued its Purchase Order No. 2614 to Bethlehem Steel Company for April 1952 delivery of certain steel reinforcing bars itemized therein with "MRO Certified under CMP Regulation 5" thereon, which allotment symbol said respondent corporation was without authority or right so to use.

(pp) On or about January 18, 1952, respondent, The American Culvert and Fabricating Company, a corporation, committed acts prohibited by sections 3 (a) 6 (d), 7 (a) and 11 of CMP Regulation No. 5, as amended December 20, 1951 (16 F R. 12823), in that said respondent issued its Purchase Order No. 2615 to Bethlehem Steel Company for May 1952 delivery of certain steel reinforcing bars itemized therein with "MRO Certified under CMP Regulation 5" thereon, which allotment symbol said respondent corporation was without authority or right so to use.

(qq) On or about April 12, 1952, respondent, The American Culvert and Fabricating Company, a corporation, committed acts prohibited by sections 3 (a), 6 (d), 7 (a), and 11 of CMP Regulation No. 5, as amended December 20, 1951 (16 F. R. 12823), in that said respondent issued its Purchase Order No. 2720 to Bethlehem Steel Company for delivery of certain steel sheets itemized therein with "MRO Certified under CMP Regulation 5" thereon, which allotment symbol said respondent corporation was without authority or right so to use.

From the documentary evidence of the purchase orders, shipping invoices, and related bills of lading in evidence in this case, it is established:

(1) The American Culvert and Fabricating Company issued purchase orders to Bethlehem Steel Company, in the period from March 12, 1951, through April 12, 1952, for an aggregate amount of carbon steel products as follows:

| | Pounds | Tons |
|---|---|---|
| (a) Structural shapes—Beams, plates, angles, channels, Ship-channels, reinforcing rods | 4,265,453 | 2,132.726 |
| (b) Corrugated sheets | 741,795 | 370.897 |
| Total | 5,007,248 | 2,503.623 |

(2) The American Culvert and Fabricating Company received, under the shipping invoices and related bills of lading, from Bethlehem Steel Company, in the period from July 6, 1951, through May 31, 1952, the following aggregate amounts of carbon steel products:

| | Pounds | Tons |
|---|---|---|
| (a) Structural shapes—Beams, plates, angles, channels, Ship-channels, reinforcing rods | 3,564,741 | 1,782.370 |
| (b) Corrugated sheets | 585,890 | 292.945 |
| Total | 4,150,631 | 2,075.315 |

The rating symbols or allotment symbols, and certifications used by respondent, The American Culvert and Fabricating Company, to procure this steel, the poundages ordered, and the poundages received, under the purchase orders, and shipping invoices and related bills of lading can be scheduled as follows:

| Rating and/or allotment symbol and certification | Purchase order No. | Purchase order date | Pounds ordered | Pounds received |
|---|---|---|---|---|
| DO-97 NPA Reg. 4 | 2333 | 3-12-51 | 100,000 | 111,940 |
| | 2346 | 3-16-51 | [1] 212,192 | 151,749 |
| | 2347 | 3-16-51 | [1] 229,764 | 260,788 |
| | 2359 | 3-21-51 | [2] 202,420 | [3] |
| | 2360 | 3-22-51 | 100,000 | 104,640 |
| | 2374 | 3-26-51 | 278,607 | 216,664 |
| | 2375 | 3-26-51 | 170,684 | 173,708 |
| | 2409 | 4-30-51 | 420,000 | 429,912 |
| | 2426 | 5- 4-51 | 213,926 | [4] |
| | 2442 | 5-28-51 | 401,800 | 197,154 |
| Total | | | 2,329,393 | 1,646,555 |
| MRO—CMP Regulation No. 5 | 2606 | 1-18-52 | [1] 131,400 | 124,868 |
| | 2614 | 1-18-52 | 60,000 | 60,194 |
| | 2615 | 1-18-52 | 60,000 | 60,194 |
| | 2720 | 4-12-52 | [2] 53,858 | 45,520 |
| Total | | | 305,258 | 290,776 |
| U4 4Q51 Certified under CMP Regulation No. 6 | 2522 | 9-13-51 | [1] 130,200 | 133,368 |
| Certified under CMP Regulation No. 6 DO U6 1Q52 | 2525 | 9-17-51 | 50,000 | 55,791 |
| | 2556 | 11- 1-51 | [1] 61,680 | 49,393 |
| | 2567 | 11-12-51 | 40,000 | 40,303 |
| | 2607 | 1- 7-52 | [5] (108,489) | [5] (27,590) |
| Total | | | 151,680 | 145,487 |
| Certified under CMP Regulation No. 6 DO U8 2Q52 | 2721 | 4- 9-52 | [1] 175,800 | [6] None |
| | 2733 | 4-29-52 | [1] 157,200 | [6] None |
| Total | | | 333,000 | 0 |
| NPA orders M-6 and M-6A (Warehouse) | 2407 | 4-25-51 | 112,000 | 40,284 |
| | 2445 | 5-28-51 | 111,822 | 110,193 |
| | 2462 | 6-21-51 | 111,600 | 103,602 |
| | 2476 | 7-11-51 | 114,000 | 116,217 |
| | 2497 | 8-13-51 | [1] 113,640 | 116,405 |
| | 2523 | 9-17-51 | [1] 76,800 | 116,184 |
| | 2542 | 10-11-51 | [1] 104,160 | 108,404 |
| | 2577 | 11-20-51 | 120,100 | 128,044 |
| | 2603 | 12-20-51 | 132,000 | 132,184 |
| | 2604 | 12-20-51 | 132,000 | 134,970 |
| | 2663 | 2-20-52 | 132,000 | 125,457 |
| | 2709 | 3-26-52 | [1] 88,800 | 116,611 |
| Total | | | 1,348,922 | 1,348,555 |
| K-7 3Q51 CMP Regulation No. 1 | 2359 | 7-11-51 | [2] 202,420 | 207,140 |
| K-7 4Q51 CMP Regulation No. 1 | 2426 | 7-11-51 | [2] 213,926 | 128,560 |
| K-7 1Q52 CMP Regulation No. 1 | 2500 | 8-22-51 | [2] 108,480 | 112,010 |
| K-7 1Q52 CMP Regulation No. 1 | 2502 | 8-22-51 | [2] 108,480 | 110,590 |
| K-7 2Q52 CMP Regulation No. 1 | 2607 | 1- 7-52 | [2] 108,489 | 27,590 |

[1] Pounds ordered not shown on purchase order—weight computed by investigators.
[2] Pounds ordered not shown on purchase order—weight computed by Bethlehem Steel Co.
[3] DO-97 rating changed by letter dated 7-11-51 to K-7 3Q-51 allotment—207,140 pounds received.
[4] DO-97 rating changed by letter dated 7-11-51 to K-7 4Q-51 allotment—128,560 pounds received.
[5] P. O. No. 2607 not included in total as no allotment symbol was used and was later changed to K-7 2Q-52.
[6] P. O. No. 2721 and No. 2733 were canceled by Bethlehem Steel Co.

It further appears from the sales invoices that The American Culvert and Fabricating Company sold, fabricated, delivered, constructed, and erected more than 145 bridge superstructures, bridge floors, guard rails, abutments, or other parts thereof, as each particular sales invoice discloses, using the symbol DO-97, MRO (or in many cases no symbol whatever) to justify its uses of steel. The aggregate amount of more than 6,189,471 pounds (3,094.735 tons) of carbon steel structural shapes (beams), plate, angles, channels, ship channels, reinforcing rods, etc.) were consumed in this work, without support in or compliance with National Production Authority regulations. This usage was 2,624,430 pounds (1,312.365 tons) of steel more than that which The American Culvert and Fabricating Company had in fact received from Bethlehem Steel Company.

But whatever its source, and by whatever rating or allotment symbol and certification The American Culvert and Fabricating Company had procured its structural steel, the company was without authority, and violated the cited National Production Authority regulations and orders, in fabricating bridge structures. To the amount of more than 3,094.735 tons, the distribution of structural steel shapes in the American economy was disturbed and disrupted.

As to corrugated sheet steel, The American Culvert and Fabricating Company was engaged in the manufacture of corrugated steel culverts. Under the Priorities System, the manufacture thereof was required to be founded on a "base period" The company had no "base period" records. It placed purchase orders for corrugated sheet steel with Bethlehem Steel Company under rating symbols and certifications "DO#97, Certified under Regulation 4" (MRO) The use of corrugated sheet steel in manufacture of corrugated steel culverts, and their subsequent sale, could not be supported by certification as MRO (maintenance, repair, and operating supplies) The use of corrugated sheet steel for bridge parts on new bridge superstructures could not be supported by certifications as MRO.

By several letters subsequently sent to Bethlehem Steel Company over the signatures of T. Rogovin and H. Rogovin, The American Culvert and Fabricating Company purported to change "DO#97, Certified under Regulation 4" to "K7-3Q51, Certified under CMP Regulation 1."

The original rating symbols and certifications on the purchase orders under MRO were invalid. The subsequent "revalidation" of these purchase orders under K7—CMP Regulation 1, were likewise invalid since they had the effect of giving the respondent company a priority and preference on the order boards (mill schedules) of Bethlehem Steel Company. But even were these revalidations proper, they were in excess of the production schedules and related allotments granted the company on its CMP-4B applications:

THIRD QUARTER, 1951

| | Tons | Pounds |
|---|---|---|
| Allotments received: On 3Q-51 CMP-4B #C5427 | 152 | 304,000 |
| Purchases: P. O. #2359 to Bethlehem Steel Co. (letter dated July 11, 1951) for | | 202,420 |

FOURTH QUARTER, 1951

| | Tons | Pounds |
|---|---|---|
| Allotments: | | |
| Advance allotment on 3Q-51 CMP-4B #C5427 | 106 | 212,000 |
| Reduction on CMP-11 (#C5427) dated Sept. 7, 1951 | 44 | 88,000 |
| | 62 | 124,000 |
| Allotment granted on 4Q-51 CMP-4B #C71208 | 0 | |
| Final allotment received | 62 | |
| Purchases: | | |
| P. O. #2426 to Bethlehem Steel Co. (letter dated July 11, 1951) for | | 213,926 |
| Ordered in excess of allotment | | 89,926 |

FIRST QUARTER, 1952

| | | |
|---|---|---|
| Allotments: | | |
| Advance allotment on 4Q-51 CMP-4B #C71208 | 47 | 94,000 |
| Reduction on CMP-11 (#C71208) dated Nov. 13, 1951 | 47 | 94,000 |
| | 0 | 0 |
| Allotment granted on 1Q-52 CMP-4B #C130238 | 94 | 188,000 |
| Purchases: | | |
| P. O. #2500 dated Aug. 22, 1951 to Bethlehem Steel Co | | 108,480 |
| P. O. #2502 dated Aug. 22, 1951 to Bethlehem Steel Co | | 108,480 |
| Total ordered with K-7 1Q-52 | | 216,960 |
| Ordered in excess of allotment | | 28,960 |

SECOND QUARTER, 1952

| | | |
|---|---|---|
| Allotments: | | |
| Advance allotment on 4Q-51 CMP-4B #C71208 | 37 | 74,000 |
| Reduction on CMP-11 (#C71208) dated Nov. 13, 1951 | 37 | 74,000 |
| | 0 | 0 |
| Advance allotment on 1Q-52 CMP-4B #C130238 | 37 | 74,000 |
| Allotment granted 2Q-52 CMP-4B #CL4019 | 12 | 24,000 |
| Final allotment received | 49 | 98,000 |
| Purchases: | | |
| P. O. #2607 dated Jan. 7, 1952 to Bethlehem Steel Co. for | | 108,489 |
| Ordered in excess of allotment | | 10,489 |

The foregoing establish the findings of fact and conclusions of law as to Charges 1 through 43.

Charge 44 alleges responsibility of Herman Rogovin as president of the respondent company and individually, Sara Fish as secretary of the respondent company and individually, and Theodore Rogovin as treasurer of the respondent company and individually, for the many violations of National Production Authority regulations, orders, and directions cited and found above. Respondents' counsel contend that these officers are not liable.

It was established in the evidence that Herman Rogovin is, and at all times during the period of the charges herein was, a director and the president of the respondent corporation. Without exception, every purchase order issued by The American Culvert and Fabricating Company to Bethlehem Steel Company, whether bearing an authorized (e. g. M-6, M-6A) certification, or an unauthorized certification (DO#97, U-4, U-6, U-8) was signed by him. He managed its affairs and was the structural engineer upon whose knowledge its fabrication of bridge structures depended.

Theodore Rogovin is, and at all times during the period of the charges herein was, a director and the treasurer of the respondent corporation. As a director of the company he was obligated to observe, direct, and, where necessary, control the activities of the corporation and its other officers. This he failed to do. In addition, Theodore Rogovin signed several of the letters to Bethlehem Steel Company which purported to "revalidate" purchase orders placed for corrugated sheet steel, and to change the unauthorized rating symbol and certification "DO#97, Certified under NPA Regulation 4" into an allotment symbol and certification "DOK7, 3Q51, Certified under CMP Regulation 1" Theodore Rogovin did not appear nor did he testify at the hearing.

Sara Fish is, and at all times during the period of the charges herein was, a director and the secretary of the respondent corporation. As a director of the company she also was obligated to observe, direct, and, where necessary, control the activities of the corporation and its other officers. As the secretary of the company she was the custodian of and was responsible for keeping the books and records of the corporation; and she was responsible to keep inventory records, base-period records (warehouse; manufacture) "in-manufacture" records, MRO records, etc., sufficient to meet the minimal requirements of National Production Authority regulations, orders, and directives. While any particular method or form of keeping records was not required, the regulations and orders did require the keeping of records sufficient to permit an audit of inventory, base-period manufacture, base-period warehouse, MRO, etc. This she failed to do. Sara Fish did not appear nor did she testify at the hearing.

The hearing commissioner finds as facts and concludes as matter of law:

That on or about the dates alleged in Charges 1 through 43, Herman Rogovin as president of The American Culvert and Fabricating Company and individually, Sara Fish as secretary of The American Culvert and Fabricating Company and individually, and Theodore Rogovin as treasurer of The American Culvert and Fabricating Company and individually, committed acts prohibited by the sections mentioned in said Charges 1 through 43 respectively, in that the said individual respondents, owning, dominating, managing, and controlling The American Culvert and Fabricating Company during the period the charged violations were committed, directed and supervised the commission thereof as alleged in Charges 1 through 43 respectively.

That during the period of time covered in Charges 1 through 44, The American Culvert and Fabricating Company, a corporation, Herman Rogovin as president of the American Culvert and Fabricating Company and individually, Sara Fish as secretary of The American Culvert and Fabricating Company and individually, and Theodore Rogovin as treasurer of The American Culvert and Fabricating Company and individually, failed to perform acts required by the several sections entitled "Records" or "Records and Reports" in the respective regulations, orders, and directives cited in Charges 1 through 43 hereof, in that the said respondents failed to keep and maintain books, records, and accounts of their procurement, receipt, handling, sale, and delivery of the steel controlled materials obtained by the respondents as aforesaid; and failed to segregate and keep separately by allotment symbols and numbers, and failed to file in such manner that they could be made available for inspection, all documents on which they relied as entitling The American Culvert and Fabricating Company to use and place purchase orders with symbols or allotment numbers thereon, or to accept delivery or deliver controlled materials or Class A products.

In order to correct the use of unauthorized certifications and rating and allotment symbols by the respondents in the placing of purchase orders for carbon steel products; and in order to correct the subsequent amendment by the respondents of unauthorized certifications and rating and allotment symbols by the use of other unauthorized certifications and symbols; and in order to correct the unauthorized receipt and acceptance by the respondents of carbon steel products under such purchase orders, and the use of said carbon steel products for purposes other than that for which National Production Authority assistance had purportedly been given; and in order to correct the dislocations and disruptions in the priority and allocations programs occasioned by the violations found herein,

*It is accordingly ordered:* 1. That all priority assistance be withdrawn and withheld from respondents, The American Culvert and Fabricating Company, a corporation, Herman Rogovin as president of The American Culvert and Fabricating Company and individually, Sara Fish as secretary of The American Culvert and Fabricating Company and individually, and Theodore Rogovin as treasurer of The American Culvert and Fabricating Company and individually, their successors or assigns, so long as the Defense Production Act of 1950, as amended, or as it may hereafter be amended or extended, remains in force and effect.

2. That all allocations and allotments of controlled materials and materials under control of the National Production Authority be withdrawn and withheld from respondents, The American Culvert and Fabricating Company, a corporation, Herman Rogovin as president of The American Culvert and Fabricating Company and individually, Sara Fish as secretary of The American Culvert and Fabricating Company and individually, and Theodore Rogovin as treasurer of The American Culvert and Fabricating Company and individually, their successors and assigns, so long as the Defense Production Act of 1950, as amended, or as it may hereafter be amended or extended, remains in force and effect.

3. That respondents, The American Culvert and Fabricating Company, a corporation, Herman Rogovin as president of The American Culvert and Fabricat-

ing Company and individually, Sara Fish as secretary of The American Culvert and Fabricating Company and individually, and Theodore Rogovin as treasurer of The American Culvert and Fabricating Company and individually, and each of them, their successors and assigns, be, and they hereby are, prohibited until June 30, 1953, from purchasing, acquiring, accepting, fabricating, using, delivering, or disposing of controlled materials or materials under control of the National Production Authority except as may in each instance be specifically authorized or directed in writing by the Administrator of the National Production Authority and the said respondents and each of them as aforesaid, their successors and assigns, are further prohibited during the period July 1, through September 30, 1953, from fabricating, using, delivering, or disposing of controlled materials or materials under control of the National Production Authority, in the possession of the respondents on the date of this order, except as they may in each instance be authorized and directed by the Administrator of the National Production Authority to sell, deliver, and dispose of such materials to manufacturers of Class A or Class B products, or to suppliers of controlled materials or materials under control, holding rated orders for such products where those orders bear program indentification symbols A, B, C, D, or E, and a digit, to supply materials for the fulfillment of such orders.

4. That nothing contained in the immediately preceding paragraphs 1, 2, and 3 shall preclude or prevent The American Culvert and Fabricating Company, a corporation, Herman Rogovin as president of The American Culvert and Fabricating Company and individually, Sara Fish as secretary of The American Culvert and Fabricating Company and individually, and Theodore Rogovin as treasurer of The American Culvert and Fabricating Company and individually, or either of them, their successors or assigns, from placing unrated orders, for a particular controlled material, or a particular material under control, with a producer of such materials, as provided in Direction 20 to CMP Regulation No. 1, dated February 17, 1953, and Direction 10 to CMP Regulation No. 6, dated February 16, 1953.

Issued this 16th day of June 1953 at Cleveland, Ohio.

NATIONAL PRODUCTION AUTHORITY,
By HARRISON W EWING,
*Hearing Commissioner*

[F. R. Doc. 53-5596; Filed, June 22, 1953; 10:11 a. m.]

## DEPARTMENT OF LABOR

### Wage and Hour Division

LEARNER EMPLOYMENT CERTIFICATES

ISSUANCE TO VARIOUS INDUSTRIES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938, as amended (52 Stat. 1068, as amended; 29 U. S. C. and Sup. 214) and Part 522 of the regulations issued thereunder (29 CFR Part 522), special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates applicable under section 6 of the act have been issued to the firms listed below. The employment of learners under these certificates is limited to the terms and conditions therein contained and is subject to the provisions of Part 522. The effective and expiration dates, occupations, wage rates, number or proportion of learners, and learning period for certificates issued under the general learner regulations (§§ 522.1 to 522.14) are as indicated below; conditions provided in certificates issued under special industry regulations are as established in these regulations.

Single Pants, Shirts and Allied Garments, Women's Apparel, Sportswear and Other Odd Outerwear, Rainwear, Robes and Leather and Sheep-Lined Garments Divisions of the Apparel Industry Learner Regulations (29 CFR 522.160 to 522.166, as amended December 31, 1951, 16 F R. 12043, and June 2, 1952; 17 F. R. 3818)

Angelica Uniform Co., Eminence, Mo., effective 6-9-53 to 12-8-53; 35 learners for expansion purposes (women's washable service apparel).

Angelica Uniform Co., Marquand, Mo., effective 6-12-53 to 6-17-54; 10 learners for normal labor turnover purposes (men's washable service apparel).

Blanchester Garment Co., Inc., East Main Street, Blanchester, Ohio, effective 6-11-53 to 12-10-53; 50 learners for expansion purposes (shirts, pants and jackets).

Calloway Manufacturing Co., Murray, Ky., effective 6-10-53 to 12-9-53; 100 additional learners for expansion purposes (men's work trousers, dungarees and hobby jeans) (supplemental certificate).

Fay Sportwear Co., 345 High Street, Burlington, N. J., effective 6-10-53 to 6-9-54; 3 learners for normal labor turnover purposes. This certificate does not authorize the employment of learners at subminimum wage rates engaged in the production of skirts (ladies' and children's dresses and sportswear).

Foster Bros. Manufacturing Co., Inc., Luverne, Ala., effective 6-9-53 to 12-8-53; 50 learners for expansion purposes (men's single pants).

Foster Bros. Manufacturing Co., Inc., Luverne, Ala., effective 6-9-53 to 6-8-54; 10 percent of the factory production workers for normal labor turnover purposes (men's single pants).

George Manufacturing Corp., 161 West Main Street, Pittston, Pa., effective 6-8-53 to 6-7-54; 10 learners for normal labor turnover purposes (women's blouses).

Highland Sportswear Co., Inc., 1002 Walnut Street, Allentown, Pa., effective 6-10-53 to 6-9-54; 10 learners for normal labor turnover (men's and boys' sportshirts).

Hughestown Garment Corp., 159 South Main Street, Pittston, Pa., effective 6-11-53 to 6-10-54; 10 percent of the factory production workers for normal labor turnover purposes (ladies' dresses).

Jacobs Bros. Inc., Littlestown, Pa., effective 6-8-53 to 6-7-54; 5 learners for normal labor turnover purposes (nurses' uniforms).

Jacquelyn, Inc., 214 North Court Street, Montgomery, Ala., effective 6-15-53 to 6-14-54; 10 learners for normal labor turnover purposes. This certificate does not authorize the employment of learners at subminimum wage rates in the production of purses (children's apparel).

Lee-Mar Shirt Co., Pulaski, Tenn., effective 6-12-53 to 6-11-54; 10 learners for normal labor turnover purposes (sport shirts).

Liberty Sport Togs, Inc., Tenth and Berks Streets, Philadelphia, Pa., 6-9-53 to 6-8-54; 10 percent of the factory production workers for normal labor turnover purposes (boys' sportswear).

Little Star Frocks, Walnut and Orchard Streets, Bridgeton, N. J., effective 6-10-53 to 6-9-54; 10 percent of the factory production workers for normal labor turnover purposes (children's dresses).

M. & G. Sportwear Co., 613 Main Street, Rockland, Maine, effective 6-12-53 to 6-11-54; 10 percent of the factory production workers for normal labor turnover purposes (men's and boys' pants).

Mary Kay Dress Co., Inc., 426 North Main Street, Pittston, Pa., effective 6-9-53 to 6-8-54; 10 learners for normal labor turnover purposes (women's dresses).

National Textile Corp., P. O. Box 252, Hampton, Ga., effective 6-12-53 to 6-11-54; 5 learners in the production of washable service garments (cotton service apparel and flat work).

Over The Top, Inc., Picayune, Miss., effective 6-18-53 to 12-19-53; 30 learners for expansion purposes (ladies' shirts and dungarees).

Over The Top, Inc., Picayune, Miss., effective 6-18-53 to 12-19-53; 10 percent of the factory production workers for normal labor turnover purposes (ladies' shirts and dungarees) (replacement certificate).

Pacific Undergarment Co., Inc., 288 Plymouth Avenue, Fall River, Mass., effective 6-12-53 to 6-11-54; 10 percent of the factory production workers for normal labor turnover purposes (ladies' cotton nightgowns, petticoats, pajamas).

Pearce Manufacturing Co., Howard, Pa., effective 6-9-53 to 6-8-54; 10 learners for normal labor turnover purposes. This certificate does not authorize the employment of learners at subminimum wage rates, engaged in the production of men's woolen caps (woolen dress shirts, woolen jackets, woolen caps).

Penn Garment Co., 1819 Penn Street, Harrisburg, Pa., effective 6-8-53 to 6-7-54; 5 learners for normal labor turnover purposes (ladies' cotton dresses).

Perfect Maid Apparel Co., 372 North Main Street, Taylor, Pa., effective 6-11-53 to 6-10-54; 5 learners for normal labor turnover purposes (women's and children's dresses).

Carl Pool Manufacturing Co., Navarro and Villita Streets, San Antonio, Tex., effective 6-15-53 to 6-14-54; 10 percent of the factory production workers for normal labor turnover purposes (work pants, work shirts and sport shirts).

Quaker Manufacturing Co., Lewisburg, Pa., effective 6-12-53 to 6-11-54; 10 percent of the factory production workers or 10 learners, whichever is greater (women's nightwear).

Quality Manufacturing Co., Delaware Road and Canal Street, Riegelsville, Pa., effective 6-10-53 to 6-9-54; 6 learners for normal labor turnover (ladies' blouses).

Samsons, Inc., Washington, N. C., effective 6-10-53 to 12-9-53; 100 learners for expansion purposes (men's sport shirts).

Semco, Inc., Greenwood, S. C., effective 6-11-53 to 12-10-53; 75 learners for expansion purposes (sport shirts).

Sherrod Shirt Co., 1632 North Main Street, High Point, N. C., effective 6-12-53 to 6-11-54; 10 percent of the factory production workers for normal labor turnover purposes (work shirts, sport shirts and pajamas).

Slimaker Dress Corp. Inc., Holton, Kans., effective 6-10-53 to 6-9-54; 10 percent of the factory production workers for normal labor turnover purposes (women's dresses).

T & T Pants Manufacturing Co., Inc., 1101 Wyoming Avenue, Scranton, Pa., effective 6-20-53 to 6-19-54; 10 learners for normal labor turnover (men's and boys' trousers).

Thompsontown Manufacturing Co., Thompsontown, Pa., effective 6-11-53 to 6-10-54; 10 percent of the factory production

workers for normal labor turnover (men's nightwear).

Wood of Texas Industries, 122 West Franklin Street, Hillsboro, Tex., effective 6-15-53 to 6-14-54; 10 percent of the factory production workers or 10 learners whichever is greater (work clothing).

Cigar Industry Learner Regulations (29 CFR 522.201 to 522.211, as amended October 27, 1952; 17 F. R. 8633)

Budd Cigar Co., Clark Street, Quincy, Florida, effective 6-16-53 to 6-15-54; 10 percent of the total number of workers. Cigar machine operators, 320 hours at 65 cents per hour; cigar packers (cigars retailing for 6 cents or less), 160 hours at 65 cents per hour; machine strippers, 160 hours at 65 cents per hour.

Glove Industry Learner Regulations (29 CFR 522.220 to 522.231, as amended October 26, 1950; 15 F. R. 6888).

Brookville Glove Co., Indiana, Pa., effective 6-11-53 to 6-10-54; 10 learners (work gloves).

Killington Manufacturing Co., Inc., 90 Merchants Row, Rutland, Vt., effective 6-16-53 to 6-15-54; 10 learners (leather and knit dress gloves).

Killington Manufacturing Co., Inc., 90 Merchants Row, Rutland, Vt., effective 6-16-53 to 12-15-53; 10 learners for expansion purposes (leather and knit dress gloves).

Hosiery Industry Learner Regulations (29 CFR 522.40 to 522.51, as revised November 19, 1951, 16 F. R. 10733)

Fort Payne Hosiery Mills, Inc., Fort Payne, Ala., effective 6-11-53 to 6-10-54; 5 percent of the total number of factory production workers (not including office and sales personnel).

Harriman Hosiery Plant, Burlington Mills Corp., Harriman, Tenn., effective 6-16-53 to 1-31-54; 75 learners for expansion purposes.

Helen Hosiery Mills, Inc., Helen, Ga., effective 6-16-53 to 2-15-54; 5 learners for expansion purposes.

K and R Knitting Mills, Inc., McMinnville, Tenn., effective 6-11-53 to 6-10-54; 5 learners.

Standard Hosiery Mills, Dayton, Tenn., effective 6-16-53 to 6-15-54; 5 percent of the total number of factory production workers (not including office and sales personnel).

Knitted Wear Industry Learner Regulations (29 CFR 522.68 to 522.79, as amended January 21, 1952; 16 F. R. 12866)

Lady Jane Manufacturing Co., Inc., 125 South Spruce Street, Mount Carmel, Pa., effective 6-16-53 to 12-15-53; 40 learners for expansion purposes (ladies' underwear).

Taylor Manufacturing Co., Greensburg Rd., Campbellsville, Ky., effective 6-10-53 to 12-9-53; 150 learners for expansion purposes (men's and boys' knit underwear).

Regulations Applicable to the Employment of Learners (29 CFR 522.1 to 522.14).

National Textile Corp., P. O. Box 232, Hampton, Ga., effective 6-12-53 to 12-11-53; 5 learners in the manufacture of textile products. Sewing machine operator, 240 hours at 65 cents per hour (cotton service apparel and flat work).

The following special learner certificates were issued in Puerto Rico to the companies hereinafter named. The effective and expiration dates, the number of learners, the learner occupations, and the length of the learning period and the learner wage rates are indicated, respectively.

Atlas Products Corporation, Toa Alta, P. R., effective 6-5-53 to 11-13-53; 62 learners, Clicking machine and mallet cutting, 240 hours at 39 cents an hour, 240 hours at 44 cents an hour; machine stitching operation on leather gloves, 240 hours at 39 cents an hour, 240 hours at 44 cents an hour. (If learners are trained in only one suboperation (clicking machine or mallet cutting), then the learning period should be as follows: 120 hours at 39 cents an hour, 120 hours at 44 cents an hour) (manufacture of leather gloves) (replacement certificate).

Puerto Rico Hosiery Mills, Inc., Arecibo, P. R., effective 6-5-53 to 12-4-53; 13 learners. Knitters, 480 hours at 30 cents an hour, 480 hours at 35 cents an hour; seamers, 480 hours at 30 cents an hour, 480 hours at 35 cents an hour (manufacture of full-fashioned hosiery).

Sterling Instruments Corp., Villa Caparra, P. R., effective 6-5-53 to 12-4-53; 5 learners. Grinding, polishing, buffering, and adjusting; each 200 hours at 36 cents an hour (manufacture of surgical instruments).

Each certificate has been issued upon the employer's representation that employment of learners at subminimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. The certificates may be cancelled in the manner provided in the regulations and as indicated in the certificates. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of Regulations, Part 522.

Signed at Washington, D. C., this 15th day of June 1953.

MILTON BROOKE,
*Authorized Representative of the Administrator.*

[F. R. Doc. 53-5521; Filed, June 22, 1953; 8:47 a. m.]

# DEPARTMENT OF AGRICULTURE

## Commodity Credit Corporation

### SALES OF CERTAIN COMMODITIES AT FIXED PRICES

### JUNE 1953 DOMESTIC AND EXPORT PRICE LISTS

Pursuant to the Pricing Policy of Commodity Credit Corporation issued March 22, 1950, as amended January 9, 1953 (15 F. R. 1583, 18 F. R. 176), and subject to the conditions stated therein, the following commodities are available for sale in the quantities and at the prices stated:

JUNE 1953 EXPORT PRICE LIST

| Commodity and approximate quantity available (subject to prior sale) | Export price list |
|---|---|
| Cottonseed oil, refined, 570,000,000 pounds.[1] | Bid basis f. o. b. tank cars or tank wagons at points of storage locations. |
| Cottonseed oil, crude, 100,000,000 pounds.[1] | Bid basis f. o. b. tank cars or tank wagons at producers' mills. |
| Linseed oil, raw, 189,000,000 pounds.[1] | Bid basis f. o. b. tank cars at points of storage locations. |
| Peanuts, Virginia type, farmer's stock, bagged, 43,000 tons. | Bid basis, f. o. b. points of storage locations on a sound mature kernel basis subject to a premium of $1.25 per ton for each 1 percent extra large kernels in excess of 15 percent. Discounts for damage of $3.00 per ton for each 1 percent damage in excess of 1 percent; for foreign material of $1 per ton for each 1 percent foreign material in excess of 4 percent. |
| Honey, extracted, in 5-gallon naked containers (no shipping carton), and in drums, 7,000,000 pounds.[1] | At CCC storage in States of Montana, Wyoming, Colorado, New Mexico, and west thereof: 11.84 cents per pound for white or lighter table honey; 11.24 cents per pound for darker than white table honey; 9.84 cents per pound for nontable honey. At CCC storage in all States east of Montana, Wyoming, Colorado, and New Mexico: 12.00 cents per pound for white or lighter table honey; 12.00 cents per pound for darker than white table honey; 10.50 cents per pound for nontable honey. Available at New York, New Orleans, Minneapolis, Chicago, Kansas City, Dallas, and Portland PMA Commodity offices. |
| Dry edible beans..... | No. 1 Grade delivered on truck present location, on basis costs and freight paid to f. a. s. vessel at location shown below. Prices quoted below subject to discounts of 5 cents per hundredweight to purchasers of more than 1 carlot, 10 cents per hundredweight to purchasers of more than 5 carlots. Beans purchased must be exported within 120 days of the date of purchase, unless otherwise agreed upon by CCC. |
| Baby lima, bagged, 1950 crop, 187,500 hundredweight.[1] | Information covering prices, quantities and locations can be secured at the Portland PMA Commodity office. |
| Great Northern, bagged, 1949 crop, 224,119 hundredweight.[1] | $5 per 100 pounds, f. a. s. Gulf Ports basis export freight rate to New Orleans. Available Kansas City and Minneapolis PMA Commodity offices. |
| Small white, bagged, 8,178 hundredweight.[1] | No. 1 Grade, 1951 crop: $7 per 100 pounds, f. a. s. San Francisco Bay, Calif. |
| Austrian winter peas, bagged, not certified for purity or germination, 400,000 hundredweight.[1] | Discount for grades on all beans: No. 2, 25 cents less than No. 1; No. 3, 50 cents less than No. 1. |
| Blue Lupine seed, bagged, not certified for purity or germination, 400,000 hundredweight.[1] | Information covering prices, quantities and locations can be secured at the Dallas, Kansas City, Chicago, and New Orleans PMA Commodity offices. |
| Wheat, bulk, 25,000,000 bushels[1].. | Information covering prices, quantities and locations can be secured from the New Orleans PMA Commodity office. Offers will not be accepted for less than the minimum carlot weight as prescribed by railroad carrier's regulation at point of storage. |
| Oats, bulk, 7,389,000 bushels[1]..... | Market price on date of sale at point of delivery, provided delivery takes place with 15 days unless otherwise agreed upon. |
| Barley, bulk, 168,000 bushels[1]..... | Market price on date of sale at point of delivery, provided delivery takes place within 15 days unless otherwise agreed upon. |
| Corn, bulk, 60,000,000 bushels[1].... | Do. |
| Cottonseed meal, (bagged) and slab cake, 335,000 short tons.[1] | Do.<br>$32 per short ton, basis 40 percent combination protein and fat, hydraulic and expeller process, f. a. s. South Atlantic, Gulf, and West Coast. Discounts or premiums to apply for other combinations. Information covering quantities and locations can be secured at the New Orleans and Dallas PMA Commodity offices. |

[1] These same lots also are available at domestic sales prices announced today, except for cottonseed slab cake which is not being offered for domestic sale.

JUNE 1953 DOMESTIC PRICE LIST

| Commodity and approximate quantity available (subject to prior sale) | Domestic sales price |
|---|---|
| Nonfat dry milk solids, in carload lots only 230,000,000 pounds (spray); 25,000 000 pounds (roller) | Spray process, U. S Extra Grade, 17 cents per pound; roller process, U. S. Extra Grade 15 cents per pound. Prices apply "in store" at location of stocks in any State. ("In store" means at the processor's plant or in storage at warehouse but with any prepaid storage and outhandling charges for the benefit of the buyer.) |
| Salted creamery butter (in carload lots only) 175 000 000 pounds | U. S. Grade A and higher: All States except those listed below, 68.75 cents per pound; New York, New Jersey, Pennsylvania, New England, and other States bordering the Atlantic Ocean and Gulf of Mexico, 69.50 cents per pound; California, Oregon, and Washington, 69.75 cents per pound. U. S Grade B: 2 cents per pound less than Grade A prices. Prices apply "in store" at location of stocks in those States where butter is stored. ("In store" means at the processor's plant or warehouse, but with any prepaid storage and outhandling charges for the benefit of the buyer.) |
| Cheddar cheese, cheddar and twin styles (standard moisture basis, in carload lots only), 125 000 000 pounds | U. S. Grade A and higher: All States except those listed below 39 cents per pound; New York, New Jersey, Pennsylvania, New England, and other States bordering the Atlantic and Pacific Oceans and Gulf of Mexico, 40 cents per pound, U. S. Grade B: 1 cent per pound less than Grade A prices. Prices apply "in store" at location of stocks in those States where cheese is stored. All prices are subject to usual adjustment for moisture content. ("In store" means at the processor's plant or warehouse, but with any prepaid storage and outhandling charges for the benefit of the buyer.) |
| Cottonseed oil refined, 570 000 000 pounds [1] | Market price or 17¾ cents per pound b. p. s. y., whichever is higher, f. o. b. tank cars or tank wagons at points of storage locations Above prices will not be reduced during period ending Aug. 31, 1953. |
| Cottonseed oil crude 100 000 000 pounds [1] | Market price or acquisition price for specified areas f o b tank cars or tank wagons at producer's mills, whichever is higher Above prices will not be reduced during period ending Aug 31, 1953 |
| Linseed oil raw 180 000 000 pounds [1] | Market price on date of sale |
| Olive oil, edible 150 000 gallons | Market price or $2 68 per gallon in 55-gallon drums whichever is higher f o b points of storage locations |
| Honey, extracted, in 5-gal. naked containers (no shipping carton), and in drums 7 000 000 pounds [1] | At CCC storage in States of Montana, Wyoming, Colorado, New Mexico, and West thereof: 11.84 cents per pound, for white or lighter table honey; 11.34 cents per pound for darker than white table honey; 9.84 cents per pound for nontable honey At CCC storage in all States east of Montana Wyoming Colorado and New Mexico: 12.59 cents per pound for white or lighter table honey; 12.09 cents per pound for darker than white table honey; 10 59 cents per pound for nontable honey. Available at New York, New Orleans Minneapolis, Chicago, Kansas City, Dallas and Portland PMA Commodity offices. |
| Dry edible beans | On all beans for areas other than those shown below, adjust price upward or downward by an amount equal to the price support program differential between areas. Where no price support differential occurs, the price listed will apply. For other grades of all beans, adjust by market differentials. Prices listed below, on all beans, are at point of production. Amount of paid in freight to be added, as applicable. |
| Great Northern, bagged, 264,119 hundredweight, 1949 crop [1] | $9.49 per 100 pounds for No. 1 Grade basis f o b Morrill Nebr area and $9 11 f o b Twin Falls Idaho area |
| Baby lima, bagged 187 500 hundredweight. [1] | No 1 Grade 1950 crop: $7 38 per 100 pounds basis f o b California area |
| Small white, bagged 8 178 hundredweight [1] | No 1 Grade 1951 crop: $9 38 per 100 pounds basis f o b California area |
| Austrian winter peas, bagged, not certified for purity or germination 400 000 hundredweight [1] | Information covering prices, quantities, and locations can be secured at the Dallas, Kansas City Chicago, and New Orleans PMA Commodity offices |
| Seeds | On all seeds except Ladino. Offers will not be accepted for less than the minimum carlot weight as prescribed by railroad carrier's regulation at point of storage. However, if quantity available at any location is less than carlot offers will be accepted only for the entire lot. |
| Blue Lupine seed, bagged 400 000 hundredweight [1] | $4 per 100 pounds, f. o. b. point of production, plus any paid in freight as applicable basis current freight rate at time of sale Available New Orleans PMA Commodity office. |
| Blue Lupine meal bagged 22 000 short tons. | $21 per short ton f o. b. cars at crushing plants in Georgia and South Carolina Available in New Orleans PMA Commodity office. |
| Common and Willamette vetch seed, bagged 194 270 hundredweight | $7 per 100 pounds, f. o. b. point of production, plus any paid-in freight as applicable basis current freight rate at time of sale Available Dallas Portland, and New Orleans PMA Commodity offices. |
| Red clover seed (uncertified), bagged 55,870 hundredweight | $36.75 per 100 pounds, f. o. b. point of production, plus any paid in freight as applicable basis current freight rate at time of sale. Price will not be reduced during period ending Oct. 31, 1953. Available Portland, Chicago Kansas City, Minneapolis, and New Orleans PMA Commodity offices. |
| Red clover seed (certified), bagged Cumberland, 1,000 hundredweight; Midland 620 hundredweight. | $36.75 per 100 pounds, f. o. b. point of production, plus any paid in freight as applicable basis current freight rate at time of sale. Price will not be reduced during period ending Oct 31 1953 Available Portland and Kansas City PMA Commodity offices |

[1] These same lots also are available at export sales prices announced today, except for cottonseed pellets flakes and chips which are not being offered for export sale.

JUNE 1953 DOMESTIC PRICE LIST—Continued

| Commodity and approximate quantity available (subject to prior sale) | Domestic sales price |
|---|---|
| Ladino clover seed (certified), bagged 88 050 hundredweight | $105 per 100 pounds, basis f. o. b. point of production, plus any paid in freight, as applicable. $100 in lots of 60,000 pounds or more. Above prices will not be reduced during period ending Oct 31, 1953 Available Portland PMA Commodity office. |
| Crimson clover seed bagged 460 hundredweight | $18 per 100 pounds, f. o b. point of production, plus any paid in freight as applicable basis current freight rate at time of sale Available Portland PMA Commodity office |
| Biennial sweet clover seed, bagged, 22 160 hundredweight | $9.45 per 100 pounds, f o. b. point of production, plus any paid in freight as applicable basis current freight rate at time of sale Price will not be reduced during period ending Oct. 31, 1953. Available Kansas City, Minneapolis, Chicago, and Portland PMA Commodity offices. |
| Hubam sweet clover seed, bagged 50 hundredweight | $10.50 per 100 pounds, f. o. b. point of production, plus any paid in freight as applicable basis current freight rate at time of sale Price will not be reduced during period ending Oct 31 1953 Available Dallas PMA Commodity office. |
| Smooth bromegrass (uncertified), bagged 15 hundredweight | $15.75 per 100 pounds, f. o. b. point of production, plus any paid in freight as applicable basis current freight rate at time of sale. Price will not be reduced during period ending Oct 31 1953 Available Chicago PMA Commodity office. |
| Mountain bromegrass (Bromar certified) bagged 530 hundredweight | $21 per 100 pounds, f. o. b. point of production, plus any paid-in freight as applicable basis current freight rate at time of sale. Price will not be reduced during period ending Oct 31, 1953 Available Portland PMA Commodity office. |
| Hairy vetch seed bagged 210 880 hundredweight | $1 plus 1953 support price per 100 pounds, f o. b. point of production plus any paid in freight as applicable basis current freight rate at time of sale Available Portland, Dallas, and New Orleans PMA Commodity offices |
| Birdsfoot trefoil seed, bagged 1,150 hundredweight | $78.75 per 100 pounds, f. o. b. point of production, plus any paid in freight as applicable basis current freight rate at time of sale. Price will not be reduced during period ending Oct 31 1953 Available Portland PMA Commodity office. |
| Rough pea seed bagged, 3 480 hundredweight | $7 per 100 pounds, f. o. b. point of production, plus any paid-in freight as applicable basis current freight rate at time of sale Available Portland and New Orleans PMA Commodity offices. |
| Primar slender wheat-grass seed (certified) bagged 30 hundredweight. | $31.50 per 100 pounds, f. o. b. point of production, plus any paid-in freight as applicable basis current freight rate at time of sale. Price will not be reduced during period ending Oct 31 1953 Available Portland PMA Commodity office. |
| Ryegrass, common, bagged, 2 280 hundredweight | $7.25 per 100 pounds, f. o. b point of production, plus any paid in freight as applicable current freight rate at time of sale Available Portland PMA Commodity office. |
| Wheat, bulk 25 000 000 bushels | Basis in store the market price but in no event less than the applicable 1952 loan rate for the class, grade, quality and location, plus: (1) 40 cents per bushel if received by truck, or (2) 35 cents per bushel if received by rail or barge. Examples of minimum prices, per bushel: Kansas City, No. 1 HW, ex rail or barge, $2.84; Minneapolis, No 1 HDNS ex rail or barge $2 87; Chicago No 1 RW, ex rail or barge, $2.89. |
| Oats, bulk, 7 389 000 bushels [1] | At points of production, basis in store, the market price but not less than the applicable 1952 county loan rate, plus: (1) 21 cents per bushel if received by truck, or (2) 19 cents per bushel if received by rail or barge At other points the foregoing plus average paid in freight. Examples of minimum prices per bushel: Chicago No. 3 or better, ex rail or barge, $1.10; Minneapolis, No 3 or better, ex rail or barge, $1.05. |
| Barley bulk, 168 000 bushels [1] | Basis in store, the market price but in no event less than the applicable 1952 loan rate for the class grade quality and location, plus: (1) 29 cents per bushel if received by truck, or (2) 25 cents per bushel if received by rail or barge. Examples of minimum prices per bushel: Minneapolis No 1 barley, ex rail or barge, $1.67. |
| Corn bulk, 50 000 000 bushels [1] | At points of production, basis in store, the market price but not less than the applicable 1952 county loan rate for No. 3 yellow plus: (1) 30 cents per bushel if received by truck, or (2) 26 cents per bushel if received by rail or barge. At other locations, the foregoing plus average paid in freight. Examples of minimum prices per bushel: Chicago, No 3 yellow, $2.04; St. Louis, No 3 yellow, $2.06; Minneapolis, No. 3 yellow, $1.95; Omaha, No. 3 yellow, $1.97; Kansas City, No 3 yellow, $2 02. For other classes grades and quality, market differentials will apply. |
| Flaxseed bulk, 1 479 000 bushels | Market price on date of sale at place of delivery, provided delivery takes place within 15 days unless otherwise agreed upon, but not less than the following: $4.53 per bushel No. 1 Grade, basis in store, Minneapolis For other markets and grades, adjust by market differentials. |
| Cottonseed meal, pellets, flakes, and chips (bulk) 335 000 short tons [1] | $57 per short ton, basis 41 percent meal, hydraulic and expeller process, f. o. b. Valley area $59 per short ton basis 41 percent meal, hydraulic and expeller process, in Texas-Oklahoma, Arizona-New Mexico and California areas. Market differentials apply to other qualities. Discount of $1.50 per short ton for solvent meal. Price will not be reduced during period ending June 30, 1953. Information on quantities and locations can be secured at the New Orleans and Dallas PMA Commodity offices. |

JUNE 1953 DOMESTIC PRICE LIST—Continued

| Commodity and approximate quantity available (subject to prior sale) | Domestic sales price |
|---|---|
| Wool, shorn and pulled grease (including some scoured), 97,500,000 pounds.[1] | Sales of wool will be made at prices reflecting not less than 115 percent of the price support appraisal value per pound, Boston basis, adjusted for net freight on wool stored outside the Boston storage area. Sales will be made ex-warehouse where the wool is stored. Available Boston PMA Commodity office. |

[1] These same lots also are available at export sales prices announced today, except for cottonseed pellets, flakes, and chips which are not being offered for export sale.

(Pub. Law 439, 81st Cong.)

Issued: June 18, 1953.

[SEAL] HOWARD H. GORDON,
*Executive Vice President,*
*Commodity Credit Corporation.*

[F. R. Doc. 53-5546; Filed, June 22, 1953; 8:51 a. m.]

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SALES OF CERTAIN COMMODITIES AT FIXED PRICES

SUPPLEMENTAL EXPORT AND DOMESTIC PRICE LISTS FOR JUNE 1953

Pursuant to the Pricing Policy of Commodity Credit Corporation issued March 22, 1950 as amended January 9, 1953 (15 F. R. 1583, 18 F. R. 176) and subject to the conditions stated therein, the following commodities are available for sale in the quantities and at the prices stated:

SUPPLEMENTAL JUNE 1953 EXPORT PRICE LIST

| Commodity and approximate quantity available (subject to prior sale) | Export sales price |
|---|---|
| Light red kidney beans, bagged (1952 crop), 49,500 hundredweight. | $9.80 per 100 pounds for U. S. No. 1 beans basis f. a. s. New York. Available Chicago PMA Commodity office. |

SUPPLEMENTAL JUNE 1953 DOMESTIC PRICE LIST

| Commodity and approximate quantity available (subject to prior sale) | Domestic sales price |
|---|---|
| Light red kidney beans, bagged (1952 crop), 49,500 hundredweight. | $10.78 per 100 pounds for U. S. No. 1 beans basis f. o. b. New York shipping points. Available Chicago PMA Commodity office. |
| Dry edible pea beans, bagged (1952 crop), 250,000 hundredweight. | $9.75 per 100 pounds for U. S. No. 1 pea beans basis f. o. b. Michigan area. Available Chicago PMA Commodity office. |

(Pub. Law 439, 81st Cong.)

Issued: June 18, 1953.

[SEAL] HOWARD H. GORDON,
*Executive Vice President,*
*Commodity Credit Corporation.*

[F. R. Doc. 53-5544; Filed, June 22, 1953; 8:51 a. m.]

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## Office of the Secretary

LOUISIANA

DESIGNATION OF DISASTER AREAS HAVING NEED FOR AGRICULTURAL CREDIT

Pursuant to the authority contained in section 2, of the act of April 16, 1949 (63 Stat. 44; 12 U. S. C. 1148a-2), to designate areas having a need for agricultural credit, the following designations were made:

LOUISIANA

The following parishes were designated, on May 28, 1953, as disaster areas due to adverse weather conditions. After December 31, 1953, disaster loans will not be made except to borrowers who previously received such assistance.

| | |
|---|---|
| Acadia. | Livingston. |
| Allen. | Orleans. |
| Calcasieu. | Plaquemines. |
| Cameron. | Saint Bernard. |
| East Baton Rouge. | Saint Landry. |
| East Feliciana. | Saint Tammany. |
| Evangeline. | Tangipahoa |
| Jefferson. | West Feliciana. |
| Jefferson Davis. | |

After December 31, 1953, disaster loans will not be made except to borrowers who previously received such assistance in the following parishes which were designated as disaster areas January 4, 1952 (17 F. R. 2578).

| | |
|---|---|
| Ascension. | Pointe Coupee. |
| Assumption. | Saint Charles. |
| Iberia. | Saint James. |
| Iberville. | Saint John. |
| Lafayette. | Saint Martin. |
| La Fourche. | Saint Mary. |
| Terrebonne. | West Baton Rouge. |
| Vermilion. | |

Done at Washington, D. C., this 18th day of June 1953.

[SEAL] TRUE D. MORSE,
*Acting Secretary of Agriculture.*

[F. R. Doc. 53-5530; Filed, June 22, 1953; 8:48 a. m.]

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# FEDERAL POWER COMMISSION

[Docket No. E-6482]

PACIFIC GAS AND ELECTRIC CO.

ORDER OMITTING INTERMEDIATE DECISION PROCEDURE AND SETTING DATE FOR ORAL ARGUMENT

On May 1, 1953, at the conclusion of the hearing in the above-entitled proceeding, counsel for Pacific Gas and Electric Company orally moved upon the record, pursuant to § 1.30 (c) of the Commission's General Rules and Regulations, for omission of the intermediate decision procedure. This motion was joined in by counsel for Sierra Pacific Power Company (Sierra), and Commission Staff Counsel.

The Presiding Examiner fixed the following dates for the filing of briefs in this proceeding: Main briefs for all parties to be filed simultaneously on June 15, 1953; reply briefs for all parties to be filed simultaneously on July 6, 1953.

Sierra on May 18, 1953, requested, pursuant to §§ 1.31 (d) (2) and 1.30 of the Commission's general rules and regulations, that it be allowed to present oral argument before the Commission on a date subsequent to the date on which main and reply briefs have been submitted in the above-entitled proceeding. The counsel for the Commission's Staff has indicated that it does not object to oral argument before the Commission in this proceeding.

The Commission finds: It is appropriate for carrying out the provisions of the Federal Power Act that the request for omission of the intermediate decision procedure made by all the parties to this proceeding be granted and that the Commission hear oral argument in this proceeding respecting all matters and issues involved.

The Commission orders:

(A) The intermediate decision procedure in this proceeding be and the same hereby is omitted.

(B) The Presiding Examiner be and he hereby is directed forthwith to certify to the Commission the entire record in this proceeding.

(C) Oral argument be had before the Commission on July 22, 1953, at 10:00 a. m., e, d. s. t., in the Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning all matters and issues involved in this proceeding.

(D) Those parties to this proceeeding who intend to participate in the oral argument shall notify the Secretary of the Commission on or before July 17, 1953, of such intention and of the time

requested for presentation of their argument.

Adopted: June 16, 1953.

Issued: June 17, 1953.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 53-5533; Filed, June 22, 1953; 8:49 a. m.]

## FEDERAL CIVIL DEFENSE ADMINISTRATION

WARNING DEVICE SPECIFICATIONS

Pursuant to Part 1701, Title 32, of the Code of Federal Regulations, notice is hereby given of the issuance of the Federal Civil Defense Administration specifications covering sound-making devices designed to give public warning of enemy attack to the civilan population. These specifications are contained in FCDA Specifications Manual M6-1, Group I, transmitted by Change 6, and are available upon request from the Federal Civil Defense Administration, 1930 Columbia Road, N. W., Washington 25, D. C. For the information of the States and their political subdivisions, the Federal Civil Defense Administration will maintain a cumulative list of attack warning devices for which conformance has been established in the manner set forth below.

Financial contributions by this Administration to the States for attack warning devices will be made only for devices meeting the specifications. Manufacturers may initially establish conformance of their equipment with specifications by transmitting to this Administration the following certification, executed by an officer of the company, that their equipment meets these specifications. From time to time appropriate tests will be prescribed by FCDA to establish continuing eligibility for listing.

MANUFACTURER'S CERTIFICATION

The ---------- Company hereby certifies and warrants that the warning device equipment listed below (by make, model, and size) meets the minimum requirements of the applicable Federal Civil Defense Administration specifications (shown by applicable sepcification number and size category opposite each device) as set forth in FCDA Specifications Manual M6-1, Change No. 6. This certification and warranty is made with the knowledge that the States and their political subdivisions will rely upon it in awarding contracts for attack warning systems and that the United States of America, acting through the Federal Civil Defense Administration, will rely upon it in making financial contributions to the States and their political subdivisions for the purpose of defraying a portion of the cost of such contracts.

It is understood that Section 1001 of Title 18, U. S. Code, is applicable to this certification and warranty.

---------- Authorized Officer

---------- Company

---------- Date

This notice shall be effective when published in the FEDERAL REGISTER.

VAL PETERSON, *Administrator*

[F. R. Doc. 53-5560; Filed, June 22, 1953; 8:52 a. m.]

## SECURITIES AND EXCHANGE COMMISSION

[File No. 70-3070]

UNION PRODUCING CO.

ORDER AUTHORIZING ACQUISITION OF PROMISSORY NOTES

Union Producing Company ("Union") a nonutility subsidiary of United Gas Corporation, which is a subsidiary of Electric Bond and Share Company, a registered holding company, having filed an application and an amendment thereto pursuant to section 10 of the Public Utility Holding Company Act of 1935, regarding the proposed acquisition from time to time of promissory notes of (a) Northeast Mississippi Oil Company in an aggregate principal amount not to exceed $30,000, and (b) the Estate of Malcolm N. McCaskill, Howard G. Nason and Charles McCamic, in an aggregate principal amount not to exceed $150,000. The promissory notes, which will evidence loans by Union to the above-mentioned borrowers, will bear interest at the rate of 6 percent per annum and will be secured by assignments to Union of the borrowers' interests in certain oil and gas leases owned jointly with Union. The notes will mature on or before two years after date of issue and are to be repaid out of funds the borrowers are entitled to receive pursuant to the terms of an agreement covering the operation of the jointly owned leases.

Due notice having been given of the filing of the application and a hearing not having been requested of or ordered by the Commission; and the Commission finding that the applicable provisions of the Act and the Rules promulgated thereunder are satisfied and that no adverse findings are necessary, and deeming it appropriate in the public interest and in the interest of investors and consumers that said application be granted effective forthwith without the imposition of terms and conditions, other than those contained in Rule U-24:

*It is ordered,* Pursuant to Rule U-23 and the applicable provisions of the act, that said application be, and it hereby is, granted to become effective forthwith, subject to the terms and conditions prescribed in Rule U-24.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 53-5522; Filed, June 22, 1953; 8:47 a. m.]

[File Nos. 54-186, 59-93, 70-1804]

ARKANSAS NATURAL GAS CORP. ET AL.

ORDER REGARDING SUPPLEMENTAL APPLICATION, AS AMENDED WITH RESPECT TO THE ISSUANCE OF SHORT TERM BANK NOTES

In the matter of Arkansas Natural Gas Corporation, Cities Service Company, File No. 54-186; Arkansas Natural Gas Corporation and its subsidiaries and Cities Service Company, Respondents, File Nos. 59-93, 70-1804.

The Commission having issued its findings, opinion and order on October 1, 1952, approving an Amended Plan ("Plan") for simplification of the corporate structure of Arkansas Natural Gas Corporation ("Arknat") a registered holding company and a subsidiary of Cities Service Company ("Cities"), also a registered holding company, pursuant to Section 11 (e) of the Public Utility Holding Company Act of 1935 ("Act"); and the United States District Court for the District of Delaware by order dated January 29, 1952, having approved the Plan and ordered it enforced;

The Commission by said Order dated October 1, 1952, having reserved jurisdiction with respect to the terms and conditions under which debentures of Arkansas Fuel Oil Corporation ("Arkfuel") the successor in merger of Arknat and its non-utility subsidiary, Arkansas Fuel Oil Company, were to be issued and sold, and with respect to the taking of such further action as may be appropriate in connection with consummation of said Plan;

The Commission having, by Order dated May 4, 1953, granted Supplemental Application No. 2 providing, among other things, for the issuance and sale by Arkfuel, at competitive bidding pursuant to Rule U-50, of such amount of $23,000,000 principal amount of its 20-year Sinking Fund Debentures not required to be exchanged pursuant to an exchange offer made to the holders of the preferred stock of Arknat, subject to the condition that such issuance and sale should not be consummated until the results of competitive bidding held with respect thereto should have been made a matter of record in this proceeding and a further order should have been entered by this Commission in light of the record so completed;

Pursuant to the Plan, 47,711 shares of the Arknat preferred stock having been surrendered for later exchange for debentures, and Arkfuel having undertaken to retire the remaining 2,140,065 shares on June 18, 1953, by payment of $10.60 per share plus accrued and unpaid dividends;

Arkfuel having filed a further amendment to said Supplemental Application No. 2 reciting that it offered $22,520,000 principal amount of said debentures for sale pursuant to the competitive bidding requirements of Rule U-50 and received no bid therefor; that the proceeds from said offering of debentures were to be used on June 18, 1953, to retire the preferred stock of Arknat not theretofore

deposited pursuant to the aforesaid exchange offer; and that the company now proposes to issue notes in the principal amount of $11,500,000 each to Guaranty Trust Company of New York and The Chase National Bank of the City of New York, said notes to mature in 60 days from date of issuance and to bear interest at the rate of 3⅞ percent per annum, and the proceeds to be used to retire the Arknat preferred stock;

Notice of the filing of the amendment to said Supplemental Application, and notice that any interested person might on or before June 15, 1953, request that a hearing thereon be held, having been given by the Commission on June 3, 1953, and a petition for a hearing having been filed by the Arkansas Natural Gas Corporation Class A Common Stock Committee;

Arkfuel and Cities, having proposed an amendment to said plan which would expressly permit the issuance and sale of said 60-day bank notes; and Cities having requested that we make appropriate recitals pursuant to Supplement R of the Internal Revenue Code with respect to the transactions affecting Cities under the Plan, as amended;

Said request for a hearing having been granted and a hearing having been held at which the applicants, the Class A Common Stock Committee, and the Division of Corporate Regulation of the Commission appeared, and the Commission having considered the record and the arguments and contentions of the participants and having issued its Memorandum Opinion; and

The United States District Court for the District of Delaware having issued its order authorizing and approving an amendment to said plan which would permit the issuance of said 60-day bank notes;

*It is therefore ordered,* That said amendment to the Plan be, and hereby is, approved.

*It is further ordered,* That the application with respect to the issuance of said 60-day bank notes be, and hereby is, granted.

*It is further ordered and recited,* And the Commission finds that the application of the proceeds (or an amount equal thereto) to be received by Cities from the retirement of the 870,812 shares of Preferred Stock of Arknat, owned and held by it, to the purchase by Cities from Empire Gas and Fuel Company, a wholly-owned subsidiary, at $100 per share, of additional shares of Common Stock without nominal or par value of Empire Gas and Fuel Company, is necessary or appropriate to the integration or simplification of the holding company system of which Cities and Empire Gas and Fuel Company are members, and is necessary or appropriate to effectuate the provisions of section 11 (b) of the Public Utility Holding Company Act of 1935, within the meaning of Supplement R of the Internal Revenue Code, as amended, and jurisdiction is hereby reserved to amend, supplement, or modify, upon the petition or application of Cities Service, the recitals, itemizations, and specifications required by Supplement R of the Internal Revenue Code, as amended, with respect to the above-described transaction.

By the Commission.

[SEAL] NELLYE A. THORSEN, *Assistant Secretary.*

[F. R. Doc. 53-5524; Filed, June 22, 1953; 8:47 a. m.]

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[File No. 70-3036]

## NEW JERSEY POWER & LIGHT CO.

### SUPPLEMENTAL ORDER RELEASING JURISDICTION HERETOFORE RESERVED WITH RESPECT TO RESULTS OF COMPETITIVE BIDDING AND LEGAL FEES AND EXPENSES

New Jersey Power & Light Company ("the Company") a public utility subsidiary of General Public Utilities Corporation, a registered holding company, having filed an application and amendments thereto pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935 ("the Act") and Rule U-50 thereunder, regarding the issue and sale at competitive bidding of $5,500,000 principal amount of First Mortgage Bonds, __ percent Series due May 1, 1983 ("New Bonds"), and

The Commission having by order dated June 4, 1953 approved said application as amended, subject to the condition that the sale of the New Bonds should not be consummated until the results of competitive bidding pursuant to Rule U-50 should be made a matter of record in this proceeding and a further order entered by the Commission in the light of the record so completed; and subject to the reservation of jurisdiction with respect to all legal fees and expenses; and

The Company having, on June 17, 1953, filed a further amendment setting forth the action taken by it to comply with the requirements of Rule U-50 and stating that, pursuant to the invitation for competitive bids with respect to the New Bonds, the following bids were received:

| Bidder | Annual interest rate (percent) | Price to Company [1] (percent of principal) | Annual cost to Company (percent) |
|---|---|---|---|
| Halsey, Stuart & Co. Inc.... | 4¼ | 100.890 | 4.2023 |
| Kuhn, Loeb & Co..... | 4¼ | 100.220 | 4.2223 |
| Equitable Securities Corp.. | 4¼ | 100.150 | 4.2112 |
| Union Securities Corp..... | 4⅜ | 102.023 | 4.2247 |
| Merrill Lynch, Pierce, Fenner & Beane..... | 4⅜ | 100.109 | 4.3034 |

[1] Exclusive of accrued interest from May 1, 1953.

The amendment further stating that the Company has accepted the bid of Halsey, Stuart & Co. Inc. for the New Bonds, as set forth above, and that the bonds will be offered for sale to the public at a price of 101.70 percent of their principal amount, plus accrued interest from May 1, 1953, resulting in an underwriter's spread of 0.90 percent of the principal amount of the bonds, or an aggregate of $49,500; and

The record having also been amended and completed with respect to legal fees and expenses incurred in said transaction, as follows: (1) To be paid by the Company—Autenrieth & Rochester, general counsel, $4,500 plus expenses not exceeding $100; Berlack, Israels & Liberman, special counsel, $3,000; local title attorneys, estimated at $750; (2) to be paid by the successful bidders—Cahill, Gordon, Zachry & Reindel, independent counsel to the underwriters, $5,000, plus out-of-pocket expenses; and

The Commission having examined said amendments and having considered the record herein and finding no basis for imposing terms and conditions with respect to the price to be received for the New Bonds, the interest rate thereon, the redemption prices thereof, or the underwriter's spread; and the Commission also finding that the legal fees and expenses incurred in said transaction are not unreasonable; and it appearing to the Commission that the jurisdiction heretofore reserved over the transaction should be released:

*It is ordered,* That the jurisdiction heretofore reserved over said transaction until the results of competitive bidding should be made a matter of record in this proceeding be, and the same hereby is, released; and that said application as further amended be, and the same hereby is, granted, subject to the provisions of Rule U-24.

*It is further ordered,* That the jurisdiction heretofore reserved over legal fees and expenses be, and the same hereby is, released.

*It is further ordered,* That this order shall become effective upon its issuance.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 53-5525; Filed, June 22, 1953; 8:48 a. m.]

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[File No. 59-15]

## NORTHERN NEW ENGLAND CO. AND NEW ENGLAND PUBLIC SERVICE CO.

### ORDER RELEASING JURISDICTION OVER FEES AND EXPENSES OF LIQUIDATION TRUSTEE AND LIQUIDATION AGENT

The Commission, on February 13, 1953, having issued its Findings and Opinion and Order approving, subject to certain conditions, the plans of New England Public Service Company ("NEPSCO") and Northern New England Company ("Northern") both registered holding companies, filed pursuant to section 11 (e) of the Public Utility Holding Company Act of 1935; the plans providing, in brief, for the distribution of the remaining assets of NEPSCO and Northern and for their dissolution; and the Commission having, in said Findings and Opinion, approved the designation of Guaranty Trust Company of New York ("Guaranty") as Liquidation Trustee for NEPSCO and Liquidation Agent for Northern under said plans, and having reserved jurisdiction over the fees and expenses, among others, of Guaranty; and

The record having been completed with respect to the fees and expenses of Guaranty, for which request for pay-

ment has been made in the amount of $13,500 for its services to completion as Liquidation Trustee under the NEPSCO plan and in the amount of $3,900 for its services to completion as Liquidation Agent under the Northern plan; and

It appearing to the Commission that said fees and expenses are not unreasonable and that jurisdiction with respect thereto should be released:

*It is ordered*, That jurisdiction be, and the same hereby is, released over the fees and expenses of Guaranty Trust Company of New York for its services as Liquidation Trustee and Liquidation Agent under said plans, and that New England Public Service Company and Northern New England Company are hereby authorized and directed to make payment of the amounts indicated above to Guaranty Trust Company of New York.

*It is further ordered*, That the reservation of jurisdiction over fees and expenses contained in our order of February 13, 1953, hereby is expressly continued, except as specifically released herein.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
*Secretary.*

[F. R. Doc. 53-5526; Filed, June 22, 1953; 8:48 a. m.]

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[File No. 812-816]

OGDEN CORP. AND ALLEN & CO.

ORDER EXEMPTING SALE OF SECURITIES BETWEEN AFFILIATES

Ogden Corporation ("Ogden") New York, N. Y., a registered, closed-end, non-diversified investment company, and its affiliate, Allen & Company ("Allen") an investment banker partnership, New York, N. Y., having filed a joint application, with an amendment thereto, pursuant to sections 6 (c) and 17 (b) of the act seeking an order exempting the transactions summarized below from the prihibitions contained in sections 17 (a) and 18 (a) of the act:

Allen owns 2,732,009 shares (80 percent) of the outstanding common stock of Ogden, being the only stock outstanding. Allen also owns all the outstanding capital stocks, consisting of 10,000 shares of 6% preferred stock, $100 par value, and 10,000 shares of common stock, $100 par value, of W A. Case & Son Manufacturing Co. ("Case") Buffalo, N. Y., a company engaged primarily in the business of manufacturing, selling and distributing various types of plumbing supplies and materials.

Allen proposes to sell to Ogden its holdings of the stocks of Case for a cash consideration of $2,000,000, plus (i) certain expenses incurred in acquiring and transferring said stock and (ii) interest at the rate of 3½ percent per annum on $2,000,000 from November 14, 1952 to the date of payment for said stocks by Ogden. Credit against such interest will be given Ogden to the extent of any dividends received by Allen on said stocks.

The application, as amended, states that Allen, in the latter part of 1952, undertook to acquire, through certain wholly-owned subsidiaries from non-affiliated interests, the equity ownership of Case for the purpose of transferring the same to Ogden at cost plus expenses. It is also stated that thereafter Ogden through Case will be primarily engaged in the industrial business and will petition the Commission for entry of an order that it has ceased to be an investment company.

Pursuant to the foregoing program Allen, on November 14, 1952, acquired all the capital stock of Case for a cash consideration of $7,000,000 of which $2,000,000 was supplied by Allen and $5,000,000 by a bank loan. Subsequently Case was caused to assume the bank loan and its capital stock was changed into the above mentioned preferred and common stocks. The agreement with the lending banks covering said loan provides, among other things, for an interest rate of 4½ percent per annum and repayment of the principal as follows: $600,000 on February 15, 1954, $400,000 semi-annually thereafter until February 15, 1957, $1,000,000 on July 15, 1957, and the balance on November 15, 1957. Said agreement also contains, among other things, provisions limiting the extent of future borrowings of Case and future stock sales and dividends.

Ogden's assets amount to approximately $1,860,000, the major portion of which is comprised of cash or its equivalent. Ogden proposes to borrow approximately $467,000 from two banks to complete payment for the Case stocks. Said loans will be secured by a pledge of 3,000 shares of the Case preferred stock and other assets, and it is expected that they will mature in not more than one year and bear interest not in excess of 4 percent per annum.

Section 17 (a) of the act prohibits the sale or purchase of securities or other property by affiliated persons to or from an investment company or a company controlled by such investment company, subject to certain exceptions, unless the Commission, pursuant to section 17 (b) of the act, grants an exemption from the provisions of section 17 (a).

Section 18 (a) of the act prohibits a closed-end investment company from issuing or selling any of its own debt securities unless, among other things, immediately after its creation the indebtedness to be incurred will have an asset coverage of at least 300 per centum. To the extent that the corporate entity of Case may be disregarded in the proposed transactions, section 18 (a) of the act is, or may be, applicable. Section 6 (c) of the act authorizes the Commission to exempt, conditionally or unconditionally, any person, security or transaction from the provisions of the act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the act.

Said application, as amended, having been duly filed; notice of said filing having been given in the form and manner prescribed by Rule N-5 promulgated under the act; the Commission not having received a request for hearing within the period specified in said notice or otherwise; and the Commission not having ordered a hearing on said application, as amended; and

The Commission finding that the proposed transactions are fair and reasonable and do not involve overreaching on the part of any person concerned, and are consistent with the policies of Ogden as recited in its registration statement and reports filed pursuant to the act and with the general purposes of the act, and that, pursuant to section 17 (b) of the act, the proposed transactions may be exempted from the provisions of section 17 (a) thereof; and

The Commission further finding, pursuant to section 6 (c) of the act, that it is appropriate to exempt the proposed transactions from the provisions of section 18 (a) of the act to the extent that the same are, or may be applicable, since it appears that upon consummation of the proposed transactions Ogden, through its wholly owned subsidiary Case, will be primarily engaged in a business other than that of an investment company and Ogden has expressly represented that at such time it will cease to be an investment company:

*It is ordered*, That the proposed transactions, as set forth in the application, as amended, be, and the same hereby are, exempted forthwith from the provisions of section 17 (a) and, to the extent applicable, from the provisions of section 18 (a) of the act, pursuant to sections 17 (b) and 6 (c) of the act, respectively.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
*Secretary.*

[F. R. Doc. 53-5527; Filed, June 22, 1953; 8:48 a. m.]